

## **CULTURAL IDENTITY OF INDIA: SOCIO-LEGAL ASPECTS**

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### **ABSTRACT**

Indian Culture and traditions are very distinguished and renowned all across the world. We all refer to India and its culture as something very diverse and unique. Most of the diverse features of our culture originate from the ancient Indian scriptures and religious texts, which have dictated the way of life in India for thousands of years. This is why Indian culture is respected being ethical value based, unique and variant. It includes intellectual and social aspects of any human being. It also takes account of the aesthetic instinct as well as the spiritual impulses of a human being. India is a vast country with a lot of diversity in her physical and social environment. Its people speak in different dialects and follow different religions. In India, the role of variety in languages, religions, cultures, lifestyles, cuisines, climatic conditions, architecture, traditions, scenic beauty, saints, seers, reformers, leaders and their messages to humanity are very significant and praiseworthy. The Unity of all the diversities makes India a very beautiful country. It is a credit which goes to not only our great achievers, scientists, artists, musicians, technocrats, sports persons, champions, professionals in fields more than many, but also the common people, peasants, masons, workers, adults, men, women, others, youths children that strive to make it better day-by-day. There are enough mentions in the world literature, about India's important discoveries, inventions, Mouth-watering spices, Arts and crafts, Technological genius, Military valour, Great sacrifices, media, film, advertising, medicine, finance, fashion, textiles, and agriculture. Self-confidence, reliability, and democracy are their qualities. We are proud to be Indians because of its rich tradition and world heritage. The unity in diversity is unique to our nation. Incredible India is shining at the world map with magnificent qualities, natural resources, rivers, different seasons, festivals, agricultural production, and advancement in information technology. However, despite enumerable positive points of Indian culture there are certain negative aspects like – casteism, patriarchy or misogyny, false sense of pride, blind faith to follow outdated rituals and bad practices in the name of culture, conservative attitude towards privacy or lack of private space,

herd mentality (log kya kahenge), aversion to change, and carelessness towards protection of physical heritage. The main purpose of this research paper is to highlight the social aspects of Indian culture and to emphasize legal intervention to condemn certain anti-people practices. The author has also made endeavour to seek sociological definition of culture and to explain concept of ethnocentrism- 'false- feeling of pride', which is not in the interests of the people's welfare. Through this study, the author also tries to depict legal provisions to protect the cultural heritage of India and suggests ways to preserve them.

Key words: Culture, social aspects, unity in diversity, world heritage, protection, legal provision

## **INTRODUCTION**

India is a great country. It is geographically vibrant, culturally colorful, socially stable and truly incredible. We give the superb status to our country as a mother and call her - "Bharat Mata". She has had a unique connection between nature and its rich heritage, ancient traditions, spirituality, culture and architecture. From the majestic Himalayan peaks in the North, to the Sun-kissed beaches in the South; from the Great Indian Desert in the West, to the breathtaking natural heritage in the East makes the wonderful beauty of our country. India's excellent heritage, vast resources and biodiversity is a source of pride and strength for its citizens. It is the largest democracy and the second most-populous nation in the world with a population of 1.3 billion people. While 69 per cent live in rural areas, 31 per cent reside in thriving urban centers. Besides all these characteristics, we have multi religious society that believes in different faiths. There are many religions in our country. In addition to Hindu religion we have Buddhists, Jainism, Islam, Sikhism, Christianity, Parse and Jewish religion. But Hindus are greater in number than others and form majority.

There is no doubt that in spite of varied groups, sects, denominations and sub sections, basically we believe in doctrine of Karma and principle of Dharma. Our India, in modern time also, has maintained its national identity which is all inclusive of its linguistic and religious mosaic. Looking into the facts of Unity in Diversity in India, this claim may be based on historical interpretation of the internal principle of India's identity, through the ancient Vedic age, Muslim period and the British rule. As regards the meaning of term Hindu is concerned V.D.

Sarvarkar in his famous pamphlet<sup>1</sup>, defines “Hindutva” (Hinduness) as the belonging to an ethnical community, territorially based, and sharing common Hindu religion, traditions and values. This is based on the notion of the nation as a culture. In a sense, this seems to be an ethnic nationalism instead of universal nationalism and this is somehow not regarded as a positive interpretation for national unity by some scholars. Obviously, such an interpretation may lead division and clashes in the multi religious society and is harmful to the harmonious relations among various ethnic and religious groups.

However, as opposed to this interpretation, stands the model of a Republican State able to respect and protect all the identities without imposing one cultural model. This idea has been well summarized by Pandit Jawaharlal Nehru on the eve of formalising it in the Constitution, as for him, the “deep” definition of Indian unity is defined by “the widest tolerance of belief and custom, ... every variety acknowledged and even encouraged”<sup>2</sup> This notion of Indian proverbial tolerance has a long history since the period of Ashoka, the great and one of the legendary Indian emperor (304 BC – 232 BC). He embraced Buddhism and in his numerous edicts asked for tolerance of all religion of his empire. This definition of “deep unity” was promoted in the Indian Constitution came into force on the 26th January, 1950.

Unlike the western and modern thinking, the socio-legal system in ancient time in India was embedded in basic rule that required performance of each one’s duties towards others and to the society at large. In fact basing human actions in duties and other –regarding considerations build up a strong system sensitive to social welfare and practicing tolerance.<sup>3</sup> The idea that there is no right except the one to perform one’s duty was well propounded and emphasized in ancient Indian thinking. It was a culture based neither on individual rights, nor on power relations but on community’s conscious insight for well being of all. As Rigveda Samhita said, “May our resolutions be the same, may our hearts be united, may our mind think alike, so that we may all live here well and together.”<sup>4</sup> Withdrawal from passionate interests in worldly affairs formed the essence of religious approaches and constituted spiritual orientation of Indian Culture.

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<sup>1</sup> Savarkar, V.D., *Hindutva: Who is a Hindu?*, S.S. Savarkar, Bombay, 1923, 1969.

<sup>2</sup> Nehru, J. *The Discovery of India*, Delhi, Oxford University Press, 1946, 1997, p. 62

<sup>3</sup> W.Friedmann, *Legal Theory*, 5<sup>th</sup> Edn. Universal, New Delhi, 2003, p.232

<sup>4</sup> Rigveda, last sloka of saṅgathan-sūkta' X.191 “समानी व आकृतिः समाना हृदयानि वः | समानमस्तु वो मनो यथा वः सुसहासति |”

## MEANING AND DEFINITION OF CULTURE

Culture is unique human reality, emanating from humankind's unity with nature and manifesting in the technological, mental, moral social aesthetic and spiritual achievements of humankind. It gives meaning to our relationship and forms our subjective identity. In this regard Indian Sociologist Professor Yogendra Singh said, "Culture, therefore, enters into the process of social change in many forms and at various levels. It defines the quality of social change as the indicator. By selective adaptation to outside cultural forces, it has a large measure of resilience. With all its institutional pervasiveness, it has a core which acts as a filter or a moderator to the outside forces of cultural contact and change. This also explains why in each mainstream culture one may find existence of sub cultures and counter cultures<sup>5</sup>.

Looking at the following definitions of culture, one may consider the characteristics of culture that they each draw attention to:

'Culture ... is that complex whole which includes knowledge, belief, art, law, morals, customs, and any other capabilities and habits acquired by man as a member of society.'<sup>6</sup>

'Culture consists of patterns, explicit and implicit, of and for behaviour acquired and transmitted by symbols, constituting the distinctive achievements of human groups, including their embodiment in artifacts; the essential core of culture consists of traditional (i.e. historically derived and selected) ideas and especially their attached values; culture systems may, on the one hand, be considered as products of action, on the other, as conditional elements of future action'<sup>7</sup>.

'Culture consists of the derivatives of experience, more or less organized, learned or created by the individuals of a population, including those images or encodements and their interpretations (meanings) transmitted from past generations, from contemporaries, or formed by individuals themselves.'<sup>8</sup>

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<sup>5</sup> Yogendra Singh, *Culture Change in India*, Rawat Publications, New Delhi, 2000, p. 25

<sup>6</sup> Tyler (British anthropologist) in his *Primitive Culture* (1871); cited by K. Avruch in 'Culture and Conflict Resolution. Washington DC: United States Institute of Peace Press, 1998, p.6

<sup>7</sup> Kroeber & Kluckhohn 1952: 181; cited by N. Adler in 'International Dimensions of Organizational Behavior. 3rd ed. Ohio: South-Western College Publishing, 1997, p.14.

<sup>8</sup> T.Schwartz 1992; cited by K. Avruch op.cit. , p. 17

‘[Culture is]...the set of attitudes, values, beliefs, and behaviors shared by a group of people, but different for each individual, communicated from one generation to the next.’<sup>9</sup>

Malinowski defined culture as comprising ‘inherited artefacts, goods, technical processes, ideas, habits and values’.<sup>10</sup> He also included social structure within the notion of culture, since ‘it cannot be really understood except as part of culture’. In a later essay, Malinowski reiterated these views: culture ‘obviously is the integral whole consisting of implements and consumers’ goods of constitutional charters for the various social groupings, of human ideas and crafts, beliefs and customs’. Further, the essential fact of culture as we live it and experience it, as we can observe it scientifically, is the organization of human beings into permanent groups’<sup>11</sup> The most important feature in Malinowski’s use of the term was his conception of culture as an integral whole, within which the functions of the various parts (institutions) could be studied.<sup>12</sup>

In other recent discussions the term ‘culture’ has been used in the same broad way,<sup>13</sup> but there has been a tendency to distinguish more strictly between culture and social structure, especially among British Social anthropologists. Thus, R. Firth<sup>14</sup> says that these terms represent two ways of looking at the same phenomenon; ‘social structure’ refers to the relations between individuals and the form of those relations, while culture refers to the ‘component of accumulated resources, immaterial as well as material, which the people inherit, employ, transmute, add to and transmit’; it is ‘all learned behavior which has been social acquired.

In studying culture researchers are concerned with ideas and values such as are found in religious and moral codes, in literature, science, philosophy, art and music.

## **CHARACTERISTIC FEATURES OF CULTURE**

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<sup>9</sup> D. Matsumoto, ‘Culture and Psychology’, (Pacific Grove, CA: Brooks/Cole) 1996, p.16.

<sup>10</sup> B. Malinowski, ‘Culture’ in Encyclopaedia of the Social Sciences, New York, 1933

<sup>11</sup> B. Malinowski, A Scientific Theory of Culture, Chapel Hill, 1944, pp. 36, 43.

<sup>12</sup> T.B. Bottomore, Sociology A Guide to Problems And Literature, Blackie & Son (India) Ltd, Bombay (Now Mumbai), 1962, Fifth Impression, 1986, p.128

<sup>13</sup> Ibid.

<sup>14</sup> R. Firth, Elements of Social Organization, p.27, in T.B. Bottomore’s A Guide to Problems And Literature, Ibid.

**1. Culture is learned:** Culture is not inherited biologically but it is learnt socially by man in a society. It is not an inborn tendency but acquired by man from the association of others, e.g. drinking, eating, dressing, walking, behaving, reading are all learnt by man.

**2. Culture is social:** It is not an individual phenomena but it is the product of society. It develops in the society through social interaction. It is shared by the man of society No man can acquire it without the association of others. Man is man only among men. It helps to develop qualities of human beings in a social environment. Deprivation of a man from his company is the deprivation of human qualities.

**3. Culture is shared:** Culture is something shared. It is nothing that an individual can pass but shared by common people of a territory. For example, customs, traditions, values, beliefs are all shared by man in a social situation. These beliefs and practices are adopted by all equally.

**4. Culture is transmitted:** Culture is capable of transmitted from one generation to the next. Parents pass on cultural traits to their children and in return they pass to their children and son on. It is not transmitted through genes but through language. Language is means to communication which passes cultural traits from one generation to another.

**5. Culture is Continuous:** It is continuous process. It is like a stream which is flowing from one generation to another through centuries. "Culture is the memory of human race."

**6. Culture is integrated:** All the cultural aspects are inter-connected with each other. The development of culture is the integration of its various parts. For example, values system is interlinked with morality, customs, beliefs and religion.

**7. Culture is changing:** It remains changing but not static. Cultural process undergoes changes. But with different speeds from society to society and generation to generation.

**8. Culture varies from society to society:** Every society has its own culture and ways of behaving. It is not uniform everywhere but occurs differently in various societies. Every culture is unique in itself is a specific society. For example, values, customs, traditions, ideologies, religion, belief, practices are not similar but different in every society. However the ways of eating, drinking, speaking, greeting, dressing etc are differs from one social situation to another in the same time.



**9. Culture is responsive:** Culture is responsive to the changing conditions of a physical world. It intervenes in the natural environment and helps man from all dangers and natural calamities e.g. our houses are responsible to give us shelter and safety from storm and heavy rains.

**10. Culture is accumulative:** Culture is not a matter of month or a year. It is the continuous process and adding new cultural traits. Many cultural traits are borrowed from out side and these absorbed in that culture which adopt it, as culture is accumulative and combines the suitable cultural traits.

**11. Culture is gratifying:** It is gratifying and provide all the opportunities for needs and desires satisfaction. These needs may be biological or social but It is responsible to satisfy it. Our needs are food, shelter, clothing and desires are status, fame, money, sex etc are all the examples which are fulfilled according to the cultural ways. In fact it is defined as the process through which human beings satisfy their need.

**12. Culture is Linked with society:** One of the main characteristics of culture is that culture and society are one and the same. But if we say that these terms two are twin sister, it would not be wrong. Society is a composite of people and they interact with each other through it. Culture is basically an instrument to bind the people within the society. We may say that it helps human being to adjust to the adversities of environment. Culture plays important role of mediation between man and environment.

### **CULTURE IS UNIQUE TO MANKIND**

Man is a social animal no other animal except man is able to build culture. Only man has been able to evolve culture because of the biological development that gives him an edge over the other animals. This is obvious that culture has evolved out of the inner material, 'genetic/biological equipment', and the outer material i.e. 'nature'. At the initial stage, the process of biological evolution made man the most poorly equipped (biologically) animal. For his survival in the adverse circumstances he used to utilize his other faculties. Endowed with the peculiar qualities gifted to him by nature, man was able to create secondary environment/adaptive screen between himself and nature, which is culture. The five gifts<sup>15</sup> of nature are – (i) Enlarged cranial capacity, because of which he has good memory and can think.

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<sup>15</sup> Agarwal, Deepshikha; Sociology Introducing Basic Perspectives & Concept, Mewar University Press Pvt. Ltd., New Delhi, 2016, p. 142.

(ii) Erect posture, because of which his fore limbs are free, (iii) Opposable thumb, because of which he can build and use tools, (iv) Ability to speak, use of language, because of which he can communicate well, and (v) Stereoscopic vision, because of which he can see better.

Thus, we may say that in the process of human evolution, culture came to act as the medium safeguarding and sustaining human survival. People built culture to fight against the nature and make a place for themselves. It is through culture that man is able to satisfy the Physiological needs, that is, the needs for food shelter and clothing; Safety needs, that is, protection from physical harm, job security and to avoid unexpected hazards; Social needs, that is, needs for belonging (acceptance by others) and for giving and receiving friendship and love; Esteem need, that is, need for respect of others and for a sense of accomplishment and achievement; Self actualization need, that is, need for fulfillment, for living up to one's potential, and for using one's abilities to the utmost.

### **TYPES OF CULTURE**

Sociologists describe two interrelated aspects of human culture - the physical objects of the culture and the ideas associated with these objects. These two aspects of culture are described as under:

**Material culture:** Material (tangible) culture refers to the physical objects, resources, and spaces that people use to define their culture. These include buildings, furniture, homes, utensils, clothes, jewellery, neighborhoods, cities, schools, temples, gurudwaras, mosques, churches, synagogues, offices, factories and plants, tools, means of production, goods and products, stores, and so forth. All of these physical aspects of a culture help to define the behaviors and perceptions of its members. For example, information technology is a vital aspect of material culture in today's society. In modern times students must learn to use computers, internet, cell phones to survive in college, competition, careers - government service, self employed, profession and business. In contrast to this, young adults in the tribal society in the forest areas of India who must learn, for their survival, to build weapons and hunt. These will be useful for fulfillment of their needs, livelihood, and for the family welfare also.



**Non-material culture:** Non- material (intangible) culture refers to those aspects of culture which do not have any physical existence and cannot be seen. These include ideas that people have about their culture, including beliefs, values, rules, norms, law, morals, language, organizations, and institutions. For instance, the non-material cultural concept of religion consists of a set of ideas and beliefs about God, worship, morals, and ethics. These beliefs, then, determine how the culture responds to its religious topics, issues, and events. When considering non-material culture, sociologists refer to several processes that a culture uses to shape its members' thoughts, feelings, views, attitudes, opinions and behaviors. Four of the most important of these are symbols, language, values, and norms.

**Mainstream culture or Dominant culture** is the culture that is held within a large amount of people residing in a society, or in other words it is the culture that seems the most “normal” to those that live in a specific area of the world. Mainstream presents a situation where the larger society having certain dominant culture, with its elements distributed in all groups.

**Subculture** is a group of people within a culture that differentiates itself from the parent culture to which it belongs, often maintaining some of its founding principles. Subcultures develop their own norms and values regarding cultural, political and sexual matters. Subcultures are part of society while keeping their specific characteristics intact. The concept of subcultures was developed in sociology and cultural studies to exhibit smaller groups cultural features. The variation of their culture from the mainstream culture is called sub culture. We can take the Indian context to explain this. In India we have mainstream culture, which tends to identify all Indians, irrespective of their state, religion and language. But the different groups residing in India also have their own culture, which marks them different from each other, this is their sub culture. Youth have their own thoughts and practices, thus are often said to have their own sub culture “Youth culture”, which may be different than the stereotype culture of the larger society.

One area of particular interest has to do with deviant subcultures. Albert K.<sup>16</sup> an American Criminologist was the person who first developed the concept of sub culture theory of deviance. Cloward and Ohlin developed Cohen’s subculture theory further, expanding on it in order to try and explain why different types of subculture emerge in different regions. They suggest, that the ‘illegitimate opportunity structure’ affects what type of subculture emerges

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<sup>16</sup> Cohen, Albert K. ‘Delinquent Boys’, Harmondsworth, Penguin Books, 1955.

in response to status frustration – The varied social circumstances in which some small groups youth live give rise to three types of delinquent subculture.

**1. Criminal Subcultures** are characterized by utilitarian crimes, such as theft. They develop in more stable working class areas where there is an established pattern of crime. This provided a learning opportunity and career structure for aspiring young criminals, and an alternative to the legitimate job market as a means of achieving financial rewards. Adult criminals exercise social control over the young to stop them carrying out non-utilitarian delinquent acts – such as vandalism – which might attract the attention of the police.

**2. Conflict subcultures** emerge in socially disorganised areas where there is a high rate of population turnover and a consequent lack of social cohesion. These prevent the formation of stable adult criminal subcultures. Conflict subcultures are characterised by violence, gang warfare, ‘mugging’ and other street crime. Both approved and illegal means of achieving mainstream goals are blocked or limited and young people express their frustration at this situation through violence or street crime, and at least obtain status through success in sub cultural peer-group values. This is a possible explanation for the gang culture which is increasingly appearing in run down areas of the UK, and possibly explains the UK riots of 2011.

**3. Retreatist subcultures** emerge among those lower class youth who are ‘double failures’ – they have failed to succeed in both mainstream society and in the crime and gang cultures above. The response is a retreat into drug addiction and alcoholism, paid for by petty theft, shoplifting and prostitution

**Counter Culture** is considered to be a deviant variant of subculture. Sociologists use the concept of counter culture to identify cultures that are antagonistic to the mainstream or dominant culture. It is a subculture whose values and norms of behavior differ substantially from those of mainstream society; often in opposition to mainstream cultural mores.<sup>17</sup> A countercultural movement expresses the ethos and aspirations of a specific population during a well-defined era. Examples of this type of subcultures include Hippies, Goths and bikers. When oppositional forces reach critical mass, countercultures can trigger dramatic cultural changes. The prominent instances of countercultures in Europe and North America include

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<sup>17</sup> "Counterculture", Merriam-Webster's Online Dictionary, 2008; please also see Eric Donald Hirsch. *The Dictionary of Cultural Literacy*. Houghton Mifflin. ISBN 0-395-65597-8. (1993) p. 419

Romanticism (1790-1840), Bohemianism (1850-1910), the more fragmentary counter culture of the Beat Generation (1944-1964), followed by the globalized counterculture of the nineteen sixties (1964-1974), usually associated with the hippie subculture<sup>18</sup> and the diversified punk subculture of the 1970s and 1980s.

Counterculture might oppose mass culture (or "media culture"), or middle-class culture and values. Counterculture is sometimes conceptualized in terms of generational conflict and rejection of older or adult values.<sup>19</sup>

Bill Osgerby argues that, 'the counterculture's various strands developed from earlier artistic and political movements. On both sides of the Atlantic the 1950s "Beat Generation" had fused existentialist philosophy with jazz, poetry, literature, Eastern mysticism and drugs – themes that were all sustained in the 1960s counterculture.'<sup>20</sup> Dr. Sebastian Kappen, an Indian theologian, has tried to redefine counterculture in the Asian context. In March 1990, at a seminar in Bangalore, he presented his countercultural perspectives<sup>21</sup>. Dr. Kappen envisages counterculture as a new culture that has to negate the two opposing cultural phenomena in Asian countries:

1. invasion by Western capitalist culture, and
2. the emergence of revivalist movements.

Kappen writes, "Were we to succumb to the first, we should be losing our identity; if to the second, ours would be a false, obsolete identity in a mental universe of dead symbols and delayed myths."<sup>22</sup>

The most important countercultural movement in India had taken place in the State of West Bengal during the 1960s by a group of poets and artists who called themselves Hungryalists.

The contemporary experience tells us that the impact of counterculture is that the youths rebelled against long-standing customs in dress, music, marriage, relationship and personal behavior. The counterculture both challenged traditional values and unleashed a movement to

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<sup>18</sup> F. X. Shea, S. J., "Reason and the Religion of the Counter-Culture", *Harvard Theological Review*, Vol. 66/1 (1973), pp. 95–111

<sup>19</sup> Please see Counterculture, in Wikipedia, the free encyclopedia, available at - <https://en.wikipedia.org/wiki/Counterculture#Literature>

<sup>20</sup> *Ibid.*

<sup>21</sup> S. Kappen, *Tradition, modernity, Chapter 4 in counterculture: an Asian perspective*, Visthar, Bangalore, 1994.

<sup>22</sup> *Ibid.*

reassert basic 'pragmatic' values (which were really in serving the interest of people living in the society.) In a land mark judgment for the Lesbian, gay, bisexual and transgender (LGBT) community in the country, the Supreme Court of India lifted a colonial era ban on gay sex.<sup>23</sup>

Thus, it may be briefly said that a mainstream or dominant culture refers to the culture of the larger society to which smaller groups belong. Sub culture relates to the specific group within the society, but it is not contrary to, or does not fully discard the mainstream culture but differs from the mainstream culture in certain aspects. Counter culture is totally against the mainstream culture, often leading to strong reaction and outrage from the people following the mainstream culture.

### **ETHNOCENTRISM AND CULTURAL RELATIVISM**

We live in a rapidly changing world society. The process of globalization and liberalization is increasingly bringing people of various cultures in closer interaction with each other. This interaction can be positive or negative depending on the level of sensitivity and respect or exclusive mindset people have for other cultural groups. These two types of behaviors are related to the two important concepts – Ethnocentrism and Cultural relativism. If people are going to be successful in today's multicultural, information age, world society, they will need to develop a culturally sensitive frame of reference and mode of operation. It is the purpose of discussion on these concepts to help people move from an ethnocentric, exclusive mindset to a culturally sensitive modus operandi, by clarifying what is meant by ethnocentrism and cultural relativism, how each operates, and what are the steps that move a person from one perspective to the other.

**Cultural Ethnocentrism:** The term ethnocentrism was coined by William Graham Sumner when he worked on the concept of in-group and out-group.<sup>24</sup> Culture of a group becomes so much part of the lives of its members that they begin to feel that their way of doing things is right, perhaps the only way of doing things. This feeling takes an extreme form when the other

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<sup>23</sup> *Navtej Singh Johar & Ors. v. Union of India thr. Secretary Ministry of Law and Justice*, W. P. (Crl.) No. 76 of 2016 (Supreme Court of India) ("21. CONCLUSION i. In view of the aforesaid findings, it is declared that insofar as Section 377 criminalises consensual sexual acts of adults (i.e. persons above the age of 18 years who are competent to consent) in private, is violative of Articles 14, 15, 19, and 21 of the Constitution. It is, however, clarified that such consent must be free consent, which is completely voluntary in nature, and devoid of any duress or coercion.").

<sup>24</sup> Sumner, W.G. 'Folkways' Gin and Company, Boston, 1906.

way of doing the same thing appears to be absurd, different or perhaps weird. The belief that one's own culture is superior to other culture is termed as 'ethnocentrism'. Thus, they develop a sense of contempt to the outsiders' cultural practices and belief system.

There are three levels of ethnocentrism: a positive one, a negative one, and an extreme negative one. The positive definition defines ethnocentrism as "the point of view that one's own way of life is to be preferred to all others" There is nothing wrong with such feelings, for "it characterizes the way most individuals feel about their own cultures, whether or not they verbalize their feeling" . It is ethnocentrism that which gives people their sense of people-hood, group identity, and place in history—all of which are valuable traits to possess. Ethnocentrism becomes negative when "one's own group becomes the center of everything, and all others are scaled and rated with reference to it". It becomes negative when others' religious beliefs, cultural practices, rites and rituals are treated inferior to their own. It reaches its extreme negative form when "a more powerful group not only imposes its rule on another, but actively depreciates the things they hold to be of value".<sup>25</sup> Apartheid, the holocaust, and the genocide of the American Indian are all examples of this third level of ethnocentrism.

Ethnocentrism is a concept that indicates the other way of life or doing thing as distorted version of one's own. Understanding the concept of ethnocentrism (and cultural relativism) is gaining importance in the context of global dealings, where an individual or a group or a company feels that the ideas or methods that were successful in their own organization will work in other countries also. Eminent anthropologists like Franz Boas<sup>26</sup> and Bronislaw Kasper Malinowski took to the argument that any human science must transcend the elements of ethnocentrism. Streaks of ethnocentrism may be found in Hitler's philosophy of Nazism, where Hitler and his followers believed in the superiority of the Aryan Race and regarded the Jews and Hispanic race as inferior. The Nazi form of ethnocentrism took an extreme view and took the step of cleansing the German society by exterminating the lives of the so called inferior races.

Another illustration of ethnocentrism can be traced in the work of Elizabeth Spelman on women<sup>27</sup>. In this study the writer reflects the feminist legal theory as feminist ethnocentrism.

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<sup>25</sup> Herskovits, Melville J., *Cultural Relativism Perspectives in Cultural Pluralism*, Random House, New York, 1972, Page 103.

<sup>26</sup> Boas, Franz, *Primitive Art*, Dover Publication, 1955.

<sup>27</sup> Spelman, Elizabeth, *Inessential Women: Problems of Exclusion in Feminist Thought*; Beacon Press, Boston, 1988.



Feminist ethnocentrism refers to the belief in the pan global inferiority of women, particularly the women of specific race or skin colour as subordinated across borders, across culture and across social groups or classes.

However, we can eliminate ethnocentrism, by taking following three important steps which will enable us ‘to penetrate deception of appearance.’

1. Study the cultural context in which the action occurs.
2. Determine the circumstances of time, place, and condition surrounding it.
3. Learn the reasoning that underlies it and the moral value it reflects.

At the heart of these three steps lies the importance of learning to take the role of the other or to step into other’s shoe (empathy), the ability to see things especially that with which we are not familiar, from the perspective of the other before any consideration of judgment is considered. We should be practical in understanding the actions, beliefs and practices of other in the context of time, place, circumstances and their cultural background, as a good human being.

**Cultural Relativism:** The concept of cultural relativism was developed by Franz Boas<sup>28</sup>. Cultural relativism is the principle of regarding the beliefs, values, and practices of a culture from the viewpoint of that culture itself. Originating in the work of Franz Boas in the Twentieth century, cultural relativism has greatly influenced social sciences such as anthropology and sociology. In sociology, the principle is sometimes practiced to avoid cultural bias in research, as well as to avoid judging another culture by the standards of one's own culture. For this reason, cultural relativism has been considered an attempt to avoid ethnocentrism. Boas first articulated the idea in 1887 when he stated that civilization is not something absolute, but it is relative, and that our ideas and conceptions are true only so far as our civilization goes. But at that time he did not actually used the term ‘Cultural relativism’. Boas believed that the sweep of cultures, to be found in connection with any sub species, is so vast and pervasive that there cannot be a relationship between culture and race. Cultural relativism involves specific epistemological and methodological claims. Whether or not these claims necessitate a specific

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<sup>28</sup> Boas, Franz, Primitive Art, Op.cit.



ethical stance has been a matter of debate. Nevertheless, this principle should not be confused with moral relativism.

Cultural relativism is the view that all beliefs, customs, and ethics are relative to the individual within his own social context. If we try to take them out of their context, they lose their relevance. In other words, “right” and “wrong” are culture-specific; what is considered moral in one society may be considered immoral in another, and, since no universal standard of morality exists, no one has the right to judge another society’s customs.

Thus, what is wrong and what is right is only contextual – for example, arranged marriage is a norm in India society, and love marriage is not approved by many people in India. Contrary to this, the Westerns believe strongly in love marriage, and they cannot digest the concept of arranged marriage. For the Americans the presence of arranged marriage in a society is an indication of its backwardness. The proponents of the theory of cultural relativism believe that all cultures are worthy and important in their context, and they are of equal value. All cultures are viewed as equally rational expressions of human experience, and the anthropologists claim that we should take a candid, neutral and non-judgmental view on the culture of other people. Thus it would not be correct for an American to assume that the African tribals are backward or savage, or that going for an arranged marriage is backward.

Cultural relativism also hold the view that there is nothing wrong ( or good) with any cultural expression. So, when outsiders view the tribal dormitory system as a place where the youth indulge in free sex, it is wrong and unethical<sup>29</sup>. Rather, the tribal youth dormitories should be understood from the perspective of the role they play in the socialization of the young members and in terms of the pooled labour they provide to the society where they exist.

Cultural relativism emphasizes the co-existence of diverse of cultures, even those with conflicting moral beliefs, is not to be considered in terms of right and wrong or superior and inferior, good and bad. Today’s anthropologists consider that all cultures are equally legitimate expressions of human existence. The difference between cultures are normal, and when we look at culture of some society different than our own, we only look at the nature of cultural difference and don’t form any judgment on the basis of these difference. In short, according to the concept of cultural relativism, the belief is that there is no right or wrong except as a culture

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<sup>29</sup> Sumner, W.G., *Folkways*; Op.cit.

defines it. There are no universal rights and wrongs. But personally, author of this paper finds this belief a simplistic way of avoiding responsibility and promoting isolation. Question arises whether based on cultural relativism, as it is, should we then "accept" the events of 9/11 in America<sup>30</sup> and 26/11 in India<sup>31</sup> as they were acceptable in a fundamentalist Islamic culture?

Further, there are many examples of cultural relativism, and it is a highly controversial topic in the philosophical and religious world. Some examples would be if you were raised to believe that dogs were pets, yet in China, a dog is also food. Someone who believes in cultural relativism would not judge the dog-eating as "right" or "wrong," because there isn't a "right" or "wrong", as per the concept of cultural relativism. They believe that each culture must be understood with neutrality. Female circumcision is another practice that's accepted by one culture but not by another. Denying women entry to Sabarimala temple by Hindu priests is another example not to be taken right or wrong on the basis of concept of cultural relativism. But, educated people should own the responsibility to expose falsehood of fake faiths of different cultures. Swami Dayananda Saraswati, a great social reformer of 19<sup>th</sup> century India, **himself writes in the Preamble of his magnum opus "Light of Truth" (Satyarth Prakash):**

*"If false beliefs are not exposed, many pernicious things find currency in the world"*

Swami Dayananda ranked highest among the makers of modern India. He had worked tirelessly for the political, religious and cultural emancipation of the country. He was guided by reason, taking Hinduism back to the Vedic foundations. He had tried to reform society with a clean sweep, which was again need today. Some of the reforms introduced in the Indian Constitution had been inspired by his teachings.<sup>32</sup>

On one hand we claim that due to the progress of science the world has come very close; but on the other hand we find that the human hearts have failed to come closer in harmony. Out of sheer selfishness and insatiable greed man is hankering after amassing wealth, power and prestige by means, fair or foul. The Mahabharata (ceneYeejle) has rightly said, "The lust or

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<sup>30</sup> The 9/11 attacks were a series of four coordinated terrorist attacks by the Islamic terrorist group al-Qaeda against the United States (World Trade Center in New York City and the Pentagon in Washington, D.C. )on the morning of Tuesday, September 11, 2001. Total number of deaths: 2,996 (2,977 victims + 19 hijackers)

<sup>31</sup> The 26/11 Mumbai (The Taj Mahal Palace) attacks were a group of terrorist attacks that took place on 26th November 2008, when 10 members of Lashkar-e-Taiba, an Islamic terrorist organisation based in Pakistan carried out a series of 12 coordinated shooting and bombing attacks lasting four days across Mumbai. Deaths : Approximately 166 citizens & 9 attackers (terrorists).

<sup>32</sup> Garg, Ganga Ram, World Perspectives on Swami Dayanand Saraswati, Concept Publishing Company, H-13, Bali Nagar, New Delhi, 1984,Page-198.

greed is not appeased by enjoying the objects of pleasure in the least, but just as fire with the oblation of ghee, it flares up all the more.”<sup>33</sup> Corrupt practices are rampant. Fissiparous and pernicious tendencies detrimental to mankind have made their ugly appearance felt. Extremists are recklessly indulging in terrorism. In addition, the constant threat of devastating nuclear weapons has placed the world on the verge of peril. To quote the words of Wordsworth: “What man has made of man himself!”

The author of this paper wants to mention here that he does not intend to plead the case of any particular religion or culture, since all religions aim at the spiritual and moral progress of human beings. Swami Vivekananda used to say, “If one religion be true, then all the others also must be true.”<sup>34</sup> Religion, according to him, is the manifestation of spiritual and divine power inherent in man.

### **COMPOSITE CULTURE**

Indian society is very ancient and extremely complex. It has a very rich cultural tradition which is said to be at least 5000 years old. India is the 7th largest and 2nd most populous nation in the world. It has carved a unique place for itself in the midst of community of nations today.

The diversity in religion, region, caste, customs, languages and lifestyle, are the attraction of the composite culture of India. The highlight of our society has been its composite culture. This is the main reason of our unity. We should remember, before India became a nation-state, partition took place which was a result of so called communal politics that ripped apart our polity. But even after all this, India’s composite culture remained intact.

The unity of a culture to a great extent depends on its geography. It is geography that determines the spread of a civilization. The topography of the land around a major river has played the most significant role in the growth of culture and history of a civilization as we see it in Egypt, Greece, China or India. Since ancient times the concept of geographical unity of our country has been present in the minds of the people of India. The first expression given to this sense of unity was naming the entire land from the Himalayas up to Cape Comorin by the single name

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<sup>33</sup> “na jatu kamah kamanam upabhogena shamyati/ havisha krishnavartmeva bhuya evabhivardhate”// Mahabharata Adiparva 75.50

<sup>34</sup> The Complete Works of Swami Vivekananda, Vol. I, Advaita Ashrama, Calcutta, 1986, Introduction, Page. X

of Bharatavarsha' or the Land of Bharata till modern times. Vishnu Purana gives us a vivid description of geographical location of Bharatavarsha as a single unit in the following manner:

“The country which has ocean as its boundary in Southern part and Himalayas in its Northern is known as Bharat which is inhabited by the descendants of (king) Bharat. The country stretches from Himalayas to the Sea for thousands of miles. On the Eastern boundary the Kiratas live and on the Western boundary live the Yavanas.”<sup>35</sup> The vastness of the country with its rich natural resources, forests, mountains, rivers etc. has created among its subjects a consciousness of fundamental unity from the earliest times. India is a country where several religions are freely adopted and practiced. Here in India we have found the existence of all major religions of the world generally with a peaceful and harmonious co-existence. The term ‘secular’ used in the Indian Constitution, guarantees the citizens equality of all religions. People of all religions and beliefs enjoy this freedom. In the daily prayer of Hindu families we hear the names of all major rivers. The prayer reminds us not only of the vastness of the country but also the cultural and religious unity of this vast land:

‘O rivers Ganga, Yamuna, Godavari, Sarasvati, Narmada, Sindhu, Kaveri ! Come ye! And enter into this water of my offering’.<sup>36</sup>

These rivers considered as goddesses and devotees pray to them for considering their families for their blessings.

It is evident from the history of India that among the diverse religious beliefs, faiths and customs the stream of religious unity works as a strong binding factor of Indian cultural heritage. The saints, sages and preachers of different religions have always glorified the unity of all religions. In fact Jainism and Buddhism spread to the South from the North, Adi Sankaracharya brought the message from the South, Sant Kabir, Guru Nanak Dev and Sri Chaitanya Mahaprabhu established a link between the North and South through their universal faith. Further Sufi saints like Nizam-ud-din-Aulia and Moin-ud-din-Chisti disseminated the message of fraternity, love, peace, harmony and liberalism among the different sects and

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<sup>35</sup> “Uttaram Yat Samudrasya Himadrischaiva Dakshinam Varsham tad Bharatam nam Bharati Yatra SantatihYojananam Sahasram tu Dropoyam Dakshinottarat, Purve Kiratas PaschimeYavanas sthitah” (Verse 2.3.1)

<sup>36</sup> Gungescha Yamuneschaiva Godavari Sarsvati Narmade Sindhu Kaveri Jalesmin Sannidhi Kuru.

denominations. Thus among the diverse religious beliefs, faiths, customs, folkways and mores in the society the stream of religious unity worked as a strong binding factor of Indian cultural heritage.

The basic literary ideas, philosophy, outlook, conventions and practices are almost same in the standard literature of all religions and the unity prevailed all over the country. The social ceremonies, religious rites, festivals and modes of life may slightly differ according to religion and region but the spirit behind them is same all over the country. The sanctity of family, the rules of the castes, the sanskaras like Upanayun, Namakaran, last rites of a dead body, the cleanliness of the kitchen etc. are common to all communities and sects. Besides regional festivals there are some typical festivals like Christmas, Eid, Dussera, Holi, Diwali etc. that are celebrated throughout the country.

In spite of regional linguistic varieties, Hindi and English have been in use all over India. The Constitution of India recognized 22 languages<sup>37</sup> as provincial language and Hindi (Devnagri) as official language of India. Of these 22 languages, 14 were initially included in the Constitution. Sindhi language was added in 1967. Thereafter three more languages viz., Konkani, Manipuri and Nepali were included in 1992. Subsequently Bodo, Dogri, Maithili and Santhali were added in 2004. “The census data of 2011 revealed that 96.71 per cent population in India have one of the 22 scheduled languages as their mother tongue.”<sup>38</sup> Keeping in view the sentiments of the people of different states the Government of India, Ministry of Home Affairs, Department of Official Language prescribed annual programme<sup>39</sup> for transacting the official work of the Union in Hindi, in the ministries, government departments, offices and public sector undertakings, nationalized Banks, LIC etc, with the commitment that proper care would be taken to ensure that no one will thrust upon Hindi forcibly to another but the officers and employees, who do not know Hindi will be imparted basic training for Hindi by the government departments so that they can acquire working knowledge of Hindi. A new training

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<sup>37</sup> The Eighth Schedule to the Constitution consists of the following 22 languages: (1) Assamese, (2) Bengali, (3) Gujarati, (4) Hindi, (5) Kannada, (6) Kashmiri, (7) Konkani, (8) Malayalam, (9) Manipuri, (10) Marathi, (11) Nepali, (12) Oriya, (13) Punjabi, (14) Sanskrit, (15) Sindhi, (16) Tamil, (17) Telugu, (18) Urdu (19) Bodo, (20) Santhali, (21) Maithili and (22) Dogri.

<sup>38</sup> NDTV, Press Trust of India, updated July 8, 2018, available at: <https://www.ndtv.com/india-news/more-than-19-500-languages-spoken-as-mother-tongue-in-india-census-1876085> (accessed on 16-06-2019)

<sup>39</sup> For annual programme 2019-20 please refer: [www.rajbhasha.gov.in](http://www.rajbhasha.gov.in)



programme “Parangat” has been introduced by Central Hindi Training in the year 2015-16. All employees having working knowledge of Hindi are eligible for this training programme.

India is a multilingual country. During 2011 census of India citizens submitted 19569 names of mother tongues- technically called “raw returns”. Later on based on previous linguistic and sociological information, and logical analysis the authorities found that 18200 did not match logically with known information. A total of 1,369 names — technically called “labels” — were picked as “being names of languages”. The “raw returns” left out represent nearly 60 lakh citizens. And because of the classification regime, their linguistic citizenship has been dropped.

In addition to the 1,369 “mother tongue” names shortlisted, there were 1,474 other mother tongue names. These were placed under the generic label “Others”. As far as the Census is concerned, these linguistic “Others” are not seen to be of any concern. But the fact is that they have languages of their own. The classification system has not been able to identify what or which languages these are and so they have been silenced by having an innocuous label slapped on them.

The 1,369 have been grouped further under a total of 121 “group labels”, which have been presented as “Languages”. Of these, 22 are languages included in the Eighth Schedule of the Constitution, called “Scheduled Languages”. The remainder, 99, is “Non-scheduled Languages”. An analysis shows that most of the groupings are forced.<sup>40</sup>

In the year 2001 the ‘Universal Declaration on Cultural Diversity’ accepted the principle of “Safeguarding the linguistic heritage of humanity and giving support to expression, creation and dissemination in the greatest possible number of languages.” In pursuit of these, UNESCO has launched a linguistic diversity network and supported research. It has also brought out an Atlas of the World’s Languages in Danger, which highlights the central place of language in the world’s heritage. Hence it is important that government of India needs to see how its programme and policies including census of India can help in a greater inclusion of the marginal communities, how our intangible heritage can be preserved, and how India’s linguistic diversity can become an integral part of our national pride.

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<sup>40</sup> G.N. Devy, Getting the language count right, article published in ‘The Hindu’ 18 July, 2018, available at : <https://www.thehindu.com/opinion/lead/getting-the-language-count-right/article24454570.ece> (accessed on 16-06-2019)



## **INTANGIBLE CULTURAL HERITAGE**

The intangible cultural heritage (ICH) includes traditions or living expressions inherited from our ancestors and passed on to our descendants, such as oral traditions, performing arts, social practices, rituals, festive events, knowledge and practices concerning nature and the universe or the knowledge and skills to produce traditional crafts. Intangible cultural heritage is an important factor in maintaining cultural diversity in the face of growing globalization.

The importance of intangible cultural heritage is not the cultural manifestation itself but rather the wealth of knowledge and skills that is transmitted through it from one generation to the next generation. The socio-economic value of this transmission of knowledge is relevant for minority communities or groups and also for mainstream social groups within a State, and this is as important for developing States as for developed ones.

It is important to note that intangible cultural heritage not only represents past inherited traditions, but also more contemporary rural and urban practices in which diverse cultural groups take part. We may share expressions of intangible cultural heritage that are similar to those practiced by others. Whether they are from the neighboring village, from a city on the opposite side of the world, or have been adapted by peoples who have migrated and settled in a different region, they all are intangible cultural heritage; they have been passed from one generation to another, have evolved in response to their environments and they contribute to giving us a sense of identity and continuity, providing a link from our past, through the present, and into our future. Intangible cultural heritage contributes to social cohesion, encouraging a sense of identity and responsibility which helps individuals to feel part of one or different communities and to feel part of society at large.

Intangible cultural heritage is not merely valued as a cultural good, on a comparative basis, for its exclusivity or its exceptional value. It thrives on its basis in communities and depends on those whose knowledge of traditions, skills and customs are passed on to the rest of the community, from generation to generation, or to other communities. Intangible cultural heritage is community based. It is only be heritage when it is recognized as such by the communities, groups or individuals that create, maintain and transmit it – without their recognition, nobody else can decide for them that a given expression or practice is their heritage.

## INTANGIBLE CULTURAL HERITAGE OF HUMANITY IN INDIA

A total of 13 Intangible cultural heritage (ICH) elements from India have been inscribed till date on the UNESCO's Representative List of the Intangible Cultural Heritage of Humanity. This Representative List of the Intangible Cultural Heritage of Humanity along with year of inclusion is as follows: 1. Tradition of Vedic chanting (2008), 2. Ramlila, the traditional performance of the Ramayana(2008), 3. Kutiyattam, Sanskrit theatre (2008), 4. Ramman, religious festival and ritual theatre of the Garhwal Himalayas, India (2009), 5. Mudi yettu, ritual theatre and dance drama of Kerala (2010), 6. Kalbelia folk songs and dances of Rajasthan (2010), 7. Chhau dance (2010), 8. Buddhist chanting of Ladakh: recitation of sacred Buddhist texts in the trans-Himalayan Ladakh region, Jammu and Kashmir, India (2012), 9. Sankirtana, ritual singing, drumming and dancing of Manipur (2013), 10. Traditional brass and copper craft of utensil making among the Thatheras of Jandiala Guru, Punjab, India (2014), 11. Yoga (2016), 12. Nawrouz, Novruz, Nowrouz, Nowrouz, Nawrouz, Nauryz, Nooruz, Nowruz, Navruz, Nevruz, Nowruz, Navruz(2016), 13. Kumbh Mela (2017)<sup>41</sup>

The Ministry of Culture, Government of India makes regular Schemes, as well as organisations make efforts towards preservation, protection and promotion of intangible cultural heritage in the country. Various autonomous bodies under the Ministry of Culture have comprehensive mandates in this regard and are functioning in various spheres of preservation and promotion of intangible cultural heritage and diverse traditions of the country.<sup>42</sup>

## UNESCO WORLD HERITAGE SITES IN INDIA

There are 37 UNESCO World Heritage Sites in India. The sites are broken down into the following categories: 29 cultural sites, 7 natural sites, and 1 mixed site. The most recent site was added in 2018.

**List of Natural World Heritage Sites. Name of UNESCO World Heritage Site and location, year of notification is as follows:**

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<sup>41</sup> This information was given by Minister of State (IC) for Culture and Minister of State for Environment, Forest & Climate Change Dr. Mahesh Sharma in a written reply in Lok Sabha on 05 March, 2018; Available at - <http://pib.nic.in/newsite/PrintRelease.aspx?relid=176981> (accessed on 16-06-2019.)

<sup>42</sup> Ibid.

Sl. No.	Name of Natural World Heritage Site	State	Year of Notification
1	Kaziranga National Park	Assam	1985
2	Keoladeo Ghana National Park	Rajasthan	1985
3	Manas Wildlife Sanctuary	Assam	1985
4	Nanda Devi National Park and Valley of Flowers	Uttarakhand	1982 2005
5	Sunderbans National Park	West Bengal	1984
6	Western Ghats	Maharashtra, Goa, Karnataka, Tamil Nadu and Kerala	2012
7	Great Himalayan National Park	Himachal Pradesh	2014

**List of Cultural World Heritage Sites. Name of UNESCO World Heritage Site, location, and year of notification is as follows:**

Sl. No.	Name of Cultural World Heritage Site	State	Year of Notification
1	Agra Fort	Uttra Pradesh	1983
2	Ajanta Caves	Maharashtra	1983
3	Buddhist Monuments at Sanchi	Madhyapradesh	1989
4	Champaner-Pavagadh Archaeological Park	Gujarat	2004

5	Chhatrapati Shivaji Terminus (Formerly Victoria Terminus)	Maharashtra	2004
6	Churches and Convents of Goa	Goa	1986
7	Elephanta Caves	Maharashtra	1987
8	Ellora Caves	Maharashtra	1983
9	Fatehpur Sikri	Uttar Pradesh	1986
10	Great Living Chola Temples	Tamil Nadu	1987
11	Group of Monuments at Hampi	Karnataka	1986
12	Group of Monuments at Mahabalipuram	Tamil Nadu	1984
13	Group of Monuments at Pattadakal	Karnataka	1987
14	Hill Forts of Rajasthan	Rajasthan (Chittorgarh, Kumbhalgarh, Ranthambhore, Amber Sub-Cluster, Jaisalmer, Gagron)	2013
15	Humayun's Tomb, Delhi	Delhi	1993
16	Khajuraho Group of Monuments	Madhya Pradesh	1986
17	Mahabodhi Temple Complex at Bodh Gaya	Bihar	2002
18	Mountain Railways of India	Tamil Nadu	1999
19	Qutb Minar and its Monuments, Delhi	Delhi	1993

20	Rani-Ki-Van (the Queen's Stepwell) at Patan, Gujarat	Gujarat	2014
21	Red Fort Complex	Delhi	2007
22	Rock Shelters of Bhimbetka	Madhya Pradesh	2003
23	Sun Temple, Konarak	Orissa	1984
24	Taj Mahal	Uttar Pradesh	1983
25	The Jantar Mantar, Jaipur	Rajasthan	2010
26	Archaeological Site of Nalanda Mahavihara (Nalanda University) at Nalanda	Bihar	2016
27	The Architectural Work of Le Corbusier, an Outstanding Contribution to the Modern Movement	Chandigarh	2016
28	Historic City of Ahmadabad	Gujarat	2017
29	Mumbai's victorian art deco ensembles	Maharashtra	2018

## List of Mixed World Heritage Sites in India:

Sl. No.	Name of Mixed World Heritage Site	State	Year of Notificaton
1	Khangchendzonga National Park	Sikkim	2016

Heritage is important in understanding the past story and glory of India –its history; identity and its people. Heritage can incorporate both the tangible and the intangible. It is present in many forms such as landmarks, places, buildings and contents, spaces, views and the stories associated with them. Maximum number of Indian value heritage as a core part of our national identity. As a community, we share the responsibility to identify and respect what is important, and pass on these places to future generations so they will understand what came before them. The retention and management of heritage places has an important role to play in protecting the environment, creating vibrant communities. Retaining heritage places amounts to a substantial environmental and financial saving in embodied energy. It avoids the creation of waste and the need for replacement building materials. Heritage places also contribute to the quality of life and cultural identity of our communities. Many heritage places, such as halls, temples, forts, palaces, gurudwaras, churches, mosques, gardens, schools, and hotels, are the focal point for community gatherings. Privately-owned heritage places and heritage precincts contribute to streetscapes and our sense of belonging. Utilizing and revitalizing our heritage places can also assist local economies through employment opportunities and by generating additional revenue, particularly through tourism. Union Government, state governments and local self governments, property owners and members of the community all have a role to play in ensuring that the valuable asset of our heritage is recognized, respected and promoted.

### **LEGAL PROVISSIONS TO PROTECT CULTURAL HERITAGE OF INDIA**

As we have discussed above, heritage means cultural expressions and practices that form a body of knowledge and provide for continuity, dynamism, and meaning of social life to generations of people as individuals, social groups, and communities. Living heritage allows for identity and a sense of belonging for people as well as an accumulation of intellectual capital for current and future generations in the context of mutual respect for human, social, and cultural rights. Besides the architectural creations, monuments, material artefacts, the intellectual achievements, philosophy, treasures of knowledge, scientific inventions and discoveries are also the part of heritage. In Indian context the contributions of Baudhayana, Aryabhata, Bhaskaracharya in the field of Mathematics, Astronomy and Astrology; Varahmihir in the field of Physics; Nagarjuna in the field of Chemistry, Susruta and Charak in the field of Medicines and Patanjali in the field of Yoga are profound treasures of Indian



Cultural heritage. Culture is liable to change, but our heritage does not. As individuals we, belonging to a culture or a particular group, may acquire or borrow certain cultural traits of other communities or cultures, but our belongingness to Indian cultural heritage will remain as an unaltered sacred and strong bond of brotherhood.

Protection and safeguarding in relation to cultural heritage have great significance. "Protection" means deliberate measures taken by official bodies and communities to defend living heritage or particular elements from threat, exploitation, or harm, perceived or actual; protective measures may be legal or community rooted. "Safeguarding" means measures aimed at ensuring the viability of the intangible cultural heritage [i.e. living heritage], including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission, particularly through formal and non-formal education, as well as the revitalization of the various aspects of such heritage.

In modern India we are facing the problems of casteism, linguism and communalism. History revealed that the Islam conquest of India (10th to 16 century AD) and the Islam rule continued from 12th century to 18th century. India came under the direct rule of the British from 1858 to 1947 and got freedom on 15th August, 1947 after a long struggle and several sacrifices. Independent India has been marching ahead by realizing its defects and deficiencies. It has been trying to come out of the hold of traditionality and conservatism. It has retained its faith in democratic political system even after 72 years of independent rule. It has successfully fought 3 wars imposed on it by Pakistan and the one by China. It is emerging out as one of the strongest forces in the so called "Third world". India has attained new political stability and has made impressive achievements in the fields such as education, industry, economy, science, technology etc. It has carved out a respectable position for itself in the community of the nations. It is now faced with the challenge of forging ahead without making compromises with its national interests.

### **Constitutional provisions relating to Eighth Schedule**

The Constitutional provisions relating to the Eighth Schedule occur in article 344(1) and 351 of the Constitution of India. Article 344(1) provides for the constitution of a Commission by the President on expiration of five years from the commencement of the Constitution and thereafter at the expiration of ten years from such commencement, which shall consist of a Chairman and such other members representing the different languages specified in the Eighth

Schedule to make recommendations to the President for the progressive use of Hindi for official purposes of the Union. Article 351 of the Constitution provides that it shall be the duty of the Union to promote the spread of the Hindi language to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions used in Hindustani and in the other languages of India specified in the Eighth Schedule, and by drawing, wherever necessary or desirable, for its vocabulary, primarily, on Sanskrit and secondarily on other languages. It would thus appear that the Eighth Schedule was intended to promote the progressive use of Hindi and for the enrichment and promotion of that language.

### **Constitutional provisions safeguarding Historical Structures**

Heritage is the identity of every respective state, and they are putting considerable efforts to preserve and protect their centuries old rich heritage. India is one of the countries possessing rich cultural and natural heritage. In this regard, the preservation of historical structures has to have an objective of safeguarding national cultural identity various policies and laws are framed for preservation, protection and proper management of the cultural heritage at the state and central level in India. It is pertinent to note that many of us are not aware of the legislation and legal framework States are obliged under Article 49 of the Indian Constitution to protect monuments and places and objects of national importance. It shall be the obligation of the State to protect every monument or place or object of artistic or historic interests, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be. But the state is not succeeding to abide by the provision. On the other, people also do not take initiative in this regard. As the responsible citizen of the nation, we should attach a sense of belongingness toward our cultural heritage. It is the duty of every citizen of India under Article 51A (f) of Indian Constitution to value and preserve the rich heritage of our composite culture. It follows that we may not break each other's places of worship, set fire to religious texts, or beat up one another's priests or may not obstruct those who exercise their Fundamental Right under article 25 to profess, practice and propagate religion. It is essential to be aware of the international conventions and the national objectives and with the respective state laws significant to the security and protection and conservation of the art and the cultural heritage of a nation.

### **Constitutional provisions regarding Cultural and educational rights**

**Article 29:**

Protection of interests of minorities

"Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same".

"No citizen shall be denied admission into any educational institution maintained by the state or receiving aid out of state funds on grounds only of religion, race, caste, language or any of them".

**Article 30:**

Right of minorities to establish and administer educational institutions

"All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice".

"The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language".

The Supreme Court through the judgement of Chief Justice S.R. Das in the Kerala Education Bill<sup>43</sup> has eloquently highlighted the cultural traditions of India in the following passage:

"So long as the Constitution stands as it is and is not altered, it is, we conceive, the duty of this Court to uphold the fundamental rights and thereby honour our sacred obligation to the minority communities who are of our own. Throughout the ages endless inundations of men of diverse creeds, cultures, and races-Aryans and non-Aryans, Dravidians and Chinese, Scythians, Huns, Pathans, and Mughals-have come to this ancient land from distant regions and climes. India has welcomed them all. They have met and gathered, given and taken, and got mingled, merged and lost in one body". India's tradition has thus been epitomized in the following noble lines: "None shall be turned away from the shores of this vast area of humanity-That is India."

The preamble to the Constitution of India also eloquently provides and reiterates the spirit of the Indian Republic as follows:

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<sup>43</sup> 1959 1 SCR 995

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a sovereign socialist secular democratic Republic and to secure to all its citizens: Justice, social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity: and to promote among them all Fraternity assuring the dignity of the individual and the Unity and integrity of the Nation". Thus the Constitution of India itself reflects the liberal and tolerant nature of our culture. There may be and are deviations and deficiencies in its implementation, but this notwithstanding, the basic intent of the Constitution continue to receive sustenance from our culture, heredity, and traditions.

It is pertinent to mention here the words of wisdom of Justice A.K. Sikri when he gave high respect to women, in his farewell function organised by the Supreme Court Bar Association on 07-03-2019, in the Apex Court Lawns. He said "By nature, a part of me is feminine. Going by the quality this gender possesses, I am of the opinion that every judge, in order to do complete justice, should possess some element of femininity. After all, symbol of justice is a goddess. No doubt she is shown blindfolded, but however, her heart is not shut from where emanates the qualities of impartial justice".<sup>44</sup>

Similarly, natural justice has always been a part of the Indian way of life. The institution of the 'Panchayat' with unbiased judges and an opportunity given to all parties to be heard ensured that natural justice was always a part of the Indian ethos. The laws of India relating to matrimonial disputes emphasize the need, and indeed the duty, of the presiding judge to ensure that all avenues for reconciliation have been exhausted before granting a divorce. This is because Indian culture abhors a broken family and this is reflected in the matrimonial laws. Moreover, it is said that there is no word in Hindi language like 'divorce' or 'talaak' found in English and Urdu language.

In addition to the above said constitutional provisions the following provisions of law are also there to protect the cultural heritage of India:

1. The Ancient Monuments and Archaeological Sites and Remains Act of 1958 came into force with effect from 29th August 1958. According to the Act, ancient and historical monuments,

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<sup>44</sup> India Today, March ,2019, <https://www.indiatoday.in/india/story/justice-a-k-sikri-retires-supreme-court-judge-1472147-2019-03-07>

sculpture carvings and other like objects, archaeological sites and remains are protected and preserved. Archaeological excavations are regulated and are of National importance.

2. The Delivery of Books (Public Libraries) Act of 1952 provides for delivery of books to the National library and Public Libraries. This was amended on 29th December 1965 and named as the Delivery of Books & Newspaper (Public Libraries) Amendment Act, 1956.

3. The Antiquities and Art Treasures Act of 1972 came into force with effect from 9th September 1972. According to the Act export trade in antiquities and art treasures is regulated and smuggling and fraudulent dealings in antiquities and ancient monuments is prevented.

4. Public Records Act of 1993 came into force with effect from 2nd March 1995. According to the Act the Central Government in the Department of Culture has the power to permanently preserve public records which are of enduring value.

Further, various kinds of other laws are present for the purpose of heritage management- both international and national. International law includes the Rio declaration, Stockholm declaration, Constitution of UNESCO and other conventions. National law includes the Constitution of India, the Air (Prevention and Control of Pollution) Act, 1981, the Water (Prevention and Control of Pollution) Act, 1974, the Wildlife (Protection) Act, 1972, the Indian Forest Act, 1927, the Biological Diversity Act, 2002, the Environment (Protection) Act, 1986, the Antiquities and Art Treasures Act, 1972 (AATA), etc.

#### **‘Adopt A Heritage’ Scheme – Government of India**

Adaptive reuse of buildings has a major role to play in the sustainable development. When adaptive reuse involves historic buildings, environmental benefits are more significant, as these buildings offer so much to the environment, landscape, identity and amenity to the communities to which they belong. One of the main environmental benefits of reusing buildings is the retention of the original building’s “embodied energy”. By reusing buildings, their embodied energy is retained, making the project much more environmentally sustainable than entirely new construction. When done well, adaptive reuse can restore and maintain the heritage significance of a building and help to ensure its survival, rather than falling into disrepair through neglect or being rendered unrecognisable. Heritage buildings that are sympathetically recycled can continue to be used and appreciated.

The conservation of built heritage is generally perceived to be in the long term interest of society. This can be better understood if categorized under 'economic', 'cultural', and 'environmental', although they are not mutually exclusive and, indeed, they are often interlocked. Most buildings are capable of beneficial use, whether for their original purpose or for some other use. Buildings and their precincts need to be used in order to survive and such use can be made into an economically viable enterprise.

Heritage comprises archaeological sites, remains, ruins, and monuments protected by the Archaeological Survey of India (ASI) and their counterparts in the States, and also a large number of unprotected buildings, groups of buildings, neighborhoods, and public spaces including landscapes and natural features which provide character and distinctive identity to cities. Conservation plans and projects for cities must take into account both the protected and unprotected components of the heritage.

The three key concepts need to be understood to determine whether a property is worthy of listing as a Heritage are namely according to Historic significance, Historic integrity, Historic context.

Ten monuments have been adopted under the government “Adopt a Heritage Scheme<sup>45</sup>. The government’s Monument ‘Mitra’ and ‘Adopt a Heritage’ scheme seems cavalier in its understanding of what qualifies as adequate monument use. Whether the real issues around monument management and preservation will become subservient to the interests of tourism is a very real concern.

In the list that shall follow, the first eight adoptions are listed on the Adopt a Heritage website, while the last two are latest additions claimed by the Culture Minister.

### **10 Adopted Heritage Monuments and their Mitras**

1. Red Fort (Delhi): Dalmia Bharat Limited
2. Gandikota Fort (Andhra Pradesh): Dalmia Bharat Limited
3. Area surrounding Gangotri Temple (Trail to Gaumukh, Uttarakhand): Adventure Tour Operators Association of India

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<sup>45</sup> Please see: INDIA TODAY Web Desk New Delhi, December 18, 2018 <https://www.indiatoday.in/education-today/gk-current-affairs/story/10-monuments-adopted-govt-adopt-a-heritage-scheme-1411987-2018-12-18>



4. Mount Stok Kangri Trek (Ladakh): Adventure Tour Operators Association of India
5. Hazara Rama Temple (Hampi, Karnataka): Yatra Online
6. Qutub Minar (Delhi): Yatra Online
7. Ajanta Caves (Maharashtra): Yatra Online
8. Leh Palace (Leh, Jammu & Kashmir): Yatra Online
9. Jantar Mantar (Delhi): Apeejay Park Hotels
10. Surajkund (Haryana): Bliss Resorts

It is clarified that 'The Adopt a Heritage' is essentially a non-revenue generating project. It is part of responsible tourism where the 'Monument Mitra' essentially spends his CSR funds for upkeep and maintenance etc., and gets limited visibility. The agency was selected on the basis of unique concept of vision bid and no financial bid is involved.

### **CONCLUSIONS AND SUGGESTIONS**

Government of India has formulated and undertaken several measures to take care of the development of Tangible/Intangible Culture of the States. After ratification in 2005, Government has placed serious efforts through its various agencies, Semi-Government agencies, Regional Government agencies, NGOs that support the elements of Intangible Cultural Heritage by various ways for their growth, sustenance, further visibility, and development. It has also implemented "Adopt a Heritage Scheme" The mission of the Ministry of Culture, Government of India is to preserve, promote and disseminate all forms of art and culture. In order to achieve this, the department undertakes the following activities which are directly concerned to the Scheme of Intangible Cultural Heritage of India.

India has a rich treasure of living and diverse cultural traditions, traditional expressions, intangible cultural heritage comprising masterpieces which need institutional support and encouragement with a view to addressing areas critical for the survival and propagation of these forms of cultural heritage. Though, such preservation efforts are being carried out in a scattered form, a need is being felt to have an institutionalized and centralized Scheme for concerted efforts in the direction of professionally enhancing awareness and interest in Intangible Cultural Heritage, safeguarding, promoting and propagating it systematically. For this purpose, the Ministry of Culture has formulated a Scheme titled 'Scheme for Safeguarding the Intangible

Heritage and Diverse Cultural Traditions of India’, with the objective of reinvigorating and revitalizing various institutions, groups, individuals, identified non-MOC institutions, non-government organisations, researchers and scholars so that they may engage in activities/projects for strengthening, protecting, preserving and promoting the rich intangible cultural heritage of India.

The underlying principle is to streamline the following initiatives:

1. Maintenance and conservation of heritage
2. Administrations of libraries
3. Promotion of literary, visual and performing arts
4. Promotion of institutional and individual non-official initiatives in the fields of art and culture
5. Entering into cultural agreements with foreign countries.
6. The functional spectrum of the Department ranges from creating cultural awareness from the grass root level to the international cultural exchange level.

The above mentioned initiatives are implemented through multifarious schemes and mandates. Apart from the activities carried out through its Attached/ Subordinate Offices and Autonomous institutions, there are various grant-in-aid schemes being implemented directly by the Ministry. The grant-in-aid, in the form of financial assistance is given to voluntary Cultural Organizations/ individuals, who are engaged in the area of promotion of art and culture.

The functioning of the appointed autonomous bodies permeates into all pervasive levels of reach and visibility related to the inscribed elements. Various Centres were subsequently established by the autonomous bodies. Sangeet Natak Akademi, which has been appointed as the nodal agency which directly implements the Scheme of Intangible Cultural Heritage of India, under the aegis of Ministry of Culture, Government of India, has established various ‘Kendras’ (Centres) which exclusively work towards enhancement, training, dissemination and conservation of inscribed elements of India in the Representative List of Intangible Cultural Heritage of Humanity.

Apart from their outstanding brilliance from the perspective of aesthetics, the Intangible Cultural Heritage forms play an important role in reinforcing national integrity, fostering communal harmony, strengthens value-system and promoting the elements of humanism among the people of the country.

## **SUGGESTIONS**

1. All The stakeholders, Government, NGOs and Individuals have to strengthen their will and determination pertaining to the safeguarding and transmission of the tangible / intangible cultural heritage.
2. People should develop along with lines of their own genius and state should avoid imposing anything on them. Traditional art and culture shall be encouraged;
3. Tribal rights on land and forest should be respected;
4. The Government should take more concrete measures facilitating the democratic participation of all stakeholders so that sustainability of the process may be ensured.
5. A data collection process at an extensive level is required to enable the ministry to alter the existing policies and mindset related to this mechanism vis-à-vis intangible cultural heritage.
6. Constitutional provisions and laws are there to protect the cultural heritage of India. However, they should be implemented positively in letter and spirit
7. Parents should educate, train and socialize their children by setting examples of tolerance, provide them the environment of enlightenment and tolerance that is necessary to produce good citizens.
8. Government and NGOs to make efforts to sensitize the people for protection of cultural heritage of our nation. Consideration should be given to the ways and means by which Fundamental Duties could be popularized and made effective.
9. Right to freedom of religion and other freedoms must be scrupulously guarded and rights of minorities and fellow citizens to be respected;
10. Reform of the whole process of education is an immediate but immense need, as is the need to free it from governmental or political control. Syllabus should cover the topics like sustainable development, freedom of religion, environment protection and safeguarding the cultural heritage of India.

11. The social evil like untouchability, scavenging, patriarchy, misogyny, ethnocentrism and blind faith in traditional practices like “Jallikattu”, gender discrimination (Sabrimala temple issue) etc should be banned. People violating the government rules should be dealt with strictly.
12. Fundamental Duties as citizens can be inculcated,
13. Duty to vote at elections, actively participate in the democratic process of governance and to pay taxes should be included in fundamental duties in Article 51 A of the Constitution.
14. To fosters a spirit of family values and responsible parenthood in the matter of education, physical and moral well-being of children.  
. Duty of industrial organizations to provide education to children of their employees.
15. It is necessary for progressive people to close ranks and combat the anti social forces opposed to composite culture. Only then, there are chances of our astounding democracy and culture to survive.
16. Though, freedom of press is a fundamental right yet the media should disseminate the sensitive matters in a restrictive manner and that too on the basis of facts only to avoid unnecessary stress on the justice delivery system.
17. The principle of secularism and democratization should be strictly adhered to by the persons in government and by those holding public offices.
18. It is a request to the government and people in authority to make their best endeavors that there should no repetition of following criminal incidents :
  - (a) Babari Mosque Demolition which resulted in hatred. After effects were terrible.  
1994 Mumbai Bomb blast and hundreds of other communal clashes.
  - (b) Girl Child: Female foeticide and incidents of sexual abuse against women and children.
  - (c) Acid Attack: one can imagine the pain. Even the thought of it, hurts.
  - (d) Farmer’s suicide, unable to pay debt.
  - (e) Hundreds of children picking of things of value from garbage.
  - (f) When kids dies after eating midday meal. We mourn. When number of children dies due to sickness in a hospital;it hurts.

Actually, these incidents should not happen in a country like India which has rich cultural heritage with human nature of kindness, compassion, love, peace, harmony and generosity.

Justice Sikri cautioned the audience that the media has undergone a complete transformation in the digital age and now "we are in the era of paid and fake news. It is becoming very alarming but we are in the era of paid and fake news because of the digital era. Stories are created...and somebody puts it on any digital mode and these, in few hours time, become viral. The reach is a billion people".<sup>46</sup>

He said though social media has become a watchdog, there was a challenge to human rights also as there is a real threat of surveillance by both private and public players."How data is mined, how players like Facebook, WhatsApp etc collate data, how they can see what their consumers' choices and preferences are. If it affects the freedom of people, privacy of people, then it becomes a very dangerous instrument. And issues of dignity comes in,"<sup>47</sup>he said.

Nevertheless, history of India revealed that Indian culture is synthetic in character. It comprehends ideas of different orders. It embraces in its orbit beliefs, customs, rites, institutions, arts, religions and philosophies belonging to society in different stages of development. It eternally seeks to find a unity for the heterogeneous elements which make up its beauty in totality.

The essence of all religions in India is unique in its nature due to the authority of multiple scriptures and spirit of unity in diversity. The religious literature of Buddhists, Jains, Zoroastrians, Judaism, Islam, Sikhism and Hindus, together constitute a rich spiritual heritage, profound with its illuminating wisdom, life-sustaining moral values and splendid aesthetic expressions. The values cherished in the Vedas are eternal and of universal applicability. The idea of universal brotherhood and fellowship is preached in the Vedas time and again. The Vedas proclaimed the harmony of religions and declare that all religions are only different paths to the same God, the Ultimate Reality. Rigveda presents this doctrine in a striking

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<sup>46</sup> India Today, February 10,,2019: Judging is under stress in digital era, says Justice AK Sikri,, please refer <https://www.indiatoday.in/india/story/judging-is-under-stress-in-digital-era-justice-ak-sikri-1452748-2019-02-10>

<sup>47</sup> Ibid

manner. “Truth, which to the seers means the Ultimate Reality is one, the wise call it by various names.”<sup>48</sup>

This rejuvenation is unavoidable given Indian society’s living experience of diversity and plurality, tolerance and co-existence. The challenge today is to educate opinion about the consequences of intolerance, of narrow nationalism and of illiberal democracy and to ensure that it does not become pervasive by associating with fellow citizens who wish to retain secular principles and practices. The Muslims of India, inheritors of a rich legacy, cannot but be a part of this process as actors and as beneficiaries. They recall with pride Abul Kalam Azad’s<sup>49</sup> advice to them in October 1947 on the morrow of the Partition: ‘come, let us vow that this is our land, we are for it, and that basic decisions about its destiny will remain incomplete without our voice.’ They are committed to the Constitution and to the constitutional procedures for grievance redressal. They are concerned over rising incidents of intolerance and violence but there is no inclination in their ranks to opt for ideologies and practices of violence. This is reflective of their moorings in a composite society and their non-alienation. They retain and reiterate their claim of being citizens, endowed with rights and duties bestowed on them by the Constitution, and ‘a form of citizenship that is marked neither by a universalism generated by complete homogenization, nor by particularism of self identical and closed communities.’ Despite some shortcomings and occasional aberrations, the Indian model of accommodation of diversity in a country with a complex societal make up remains a relevant example for a globalizing world that requires all members of its citizen-body to go beyond mere tolerance to acceptance of diversity in all aspects of life. Imperatives of ultra-nationalism and geopolitics in recent decades have resulted in projecting the Muslim as ‘the new Other’ and this Otherness is being perceived as a spectre haunting the world very much like radical ideologies of earlier ages. This drift into apprehension and intolerance has to be resisted and reversed; sanity demands that all of us pull back from the precipice and anchor thought and action on civic virtues national and global.

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<sup>48</sup> ekam sad vipra bahudha vadanti/ Rigveda I.164.46

<sup>49</sup> Speech by former vice-president of India, Hamid Ansari at the Australian National University, Canberra Available at <https://sabrangindia.in/article/how-hindus-and-muslims-together-built-indias-composite-culture>, Published on May 5, 2018 (last visited on 9-6-2019)



Mahatma Gandhi, one of the most respected personalities and the Father of modern India, was fond of the prayer which synthesized the Hindu prayer to Ishvara ( God) and the Islamic prayer to Allah (God) in the following manner: “Ishvara and Allah are names of the same God. Oh God! Grant wisdom to all of us.”

Ishvara Allah Tero Nam, Sabako Sanmati De Bhagavan.

