

Universalism vs. Cultural Relativism: The Ethical Foundations of International Law

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I. Introduction

Among the many debates within international law, few have been as enduring or divisive as the question of whether human rights are universal or inherently shaped by culture. The collision between universalism and cultural relativism has complicated the implementation of international law, influencing how legal systems respond to practices rooted in deeply held traditions. On one side, universalism suggests that universal principles, values, or conceptions may be applied to all individuals and civilizations, regardless of their cultural norms². On the other, cultural relativism emphasizes the importance of respecting diverse cultural, religious, and societal values, even when they conflict with global human rights standards. While both perspectives may agree to some extent on the definition of human rights as legitimate freedoms and entitlements individuals hold simply because they are human³, significant disagreement occurs when considering what level of cultural specificity can be accommodated for during the application of human rights.

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² Lalude, Olalekan Moyosore, and Nsongurua J. Udombana. 2022. "Universality and Particularity: Why Universalism Should Be the Standard for Human Rights." Social Science Research Network. Rochester, NY. March 28, 2022. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4068977.

³ Henkin, Louis. 1989. "The Universality of the Concept of Human Rights." *The Annals of the American Academy of Political and Social Science* 506: 10–16. <https://www.jstor.org/stable/1046650>.

This paper will analyze case studies where the two perspectives of universalism and cultural relativism have clashed, focusing on female genital mutilation (FGM) in Somalia and arranged marriages in India. FGM, widely condemned as a human rights violation under international law, is still practiced in certain communities where it is considered a cultural or religious tradition. Similarly, arranged marriages (while distinct from forced marriages) raise questions about individual autonomy versus collective cultural norms. While acknowledging the significance of tradition, this paper argues that universal human rights must take precedence over cultural relativism in situations involving severe harm or coercion, where certain individuals are put at harm. Practices such as FGM and the forced aspects of arranged marriages violate core rights to autonomy and freedom – and therefore demand international legal intervention.

II. Application of International Law

Understanding how human rights are defined and applied through international law is essential to grasping the tension between universalism and cultural relativism. Philosophically, the concept of human rights has been interpreted in two main ways: the moral conception and the political conception⁴. The moral view posits that human rights arise from intrinsic features of human beings, such as autonomy, dignity, and normative agency, and exist independently of legal or institutional recognition. Scholars like James Griffin and John Tasioulas argue that human rights are grounded in our capacity for rational self-governance and the moral worth that flows from it. This view emphasizes that rights are universal and objective, transcending cultural and political boundaries.

In contrast, the political conception understands human rights as tools for regulating international relations and limiting state sovereignty. According to

⁴ Jan-Christoph Heilinger. 2012. "The Philosophy of Human Rights. Contemporary Controversies (Co-Ed. With G. Ernst)." Academia.edu. de Gruyter. 2012. https://www.academia.edu/23316835/The_Philosophy_of_Human_Rights_Contemporary_Controversies_co_ed_with_G_Ernst_.

this view, rights acquire their normative force primarily through their role in global political practice, such as justifying international intervention or shaping international treaties. While this perspective grounds human rights more firmly in real-world institutions, critics argue that it risks detaching rights from their ethical underpinnings and turning them into instruments of political convenience. However, this political conception of human rights has gained increasing prominence since the end of World War II (WWII), particularly with the adoption of the Universal Declaration of Human Rights (UDHR), which is widely regarded as the foundation for modern international human rights law.

While the UDHR represents a landmark in the history of human rights, it was itself the product of a longer historical trajectory shaped by earlier efforts to codify fundamental rights and freedoms. The political conception of modern human rights can be traced back to England in 1215 with the signing of the Magna Carta, which was the first legal document to place limitations on the powers of the monarchy⁵. Often regarded as the earliest precursor to the UDHR, the Magna Carta significantly influenced the development of the UDHR, alongside other foundational texts.

More recent documents also include the *Declaration of the Rights of Man and of the Citizen* (France, 1789) and the *Bill of Rights* (United States, 1791) which defined the rights of individuals in relation to the state. These documents introduced key principles such as freedom of expression, equality before the law, and protection from arbitrary punishment – values that continue to underpin modern conceptions of human rights (Declaration of the Rights of Man 1789; Constitution of the United States: Bill of Rights 1791). These foundational texts reflected and laid the groundwork for the development of international human rights norms, ultimately culminating in the drafting and adoption of the UDHR

⁵ ŞENER, Mustafa Burak. 2021. "A Review of the Meaning and Importance of the Universal Declaration of Human Rights." *International Journal of Political Studies* 7 (3): 15–25. <https://doi.org/10.25272/icps.962292>.

on December 10, 1948, with the approval of 48 member states. Although the declaration is not legally binding, its adoption marked a turning point in embedding human rights at the core of global political and intellectual discourse. Today, with translations in over 500 languages, it stands as the most widely recognized and cited human rights document worldwide⁶.

After its adoption, the influence of the UDHR inspired a range of subsequent international treaties and legal instruments aimed at protecting human rights on a global scale. Notable among these are the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), both adopted in 1966, which together with the UDHR form what is often referred to as the *International Bill of Human Rights*⁷. These covenants commit signatory states to uphold a broad spectrum of rights, from freedom of speech and the right to a fair trial to the rights to education, work, and an adequate standard of living. Additionally, instruments such as the Rome Statute of the International Criminal Court have provided mechanisms to hold individuals accountable for crimes against humanity, war crimes, and genocide – further solidifying the global commitment to upholding the values first articulated in the UDHR⁸. Collectively, these treaties demonstrate the enduring impact of the UDHR in shaping a legally grounded international human rights regime.

Although the UDHR has had a profound impact, its effectiveness is frequently challenged, not only because it lacks legal enforceability but also

⁶ United Nations. 2023. “The Foundation of International Human Rights Law.” United Nations. 2023. <https://www.un.org/en/about-us/udhr/foundation-of-international-human-rights-law>.

⁷ “The International Covenant on Civil and Political Rights.” n.d. Manual for Human Rights Education with Young People. <https://www.coe.int/en/web/compass/the-international-covenant-on-civil-and-political-rights>.

⁸ International Criminal Court. 1998. “Rome Statute of the International Criminal Court.” International Criminal Court. <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>.

because it is often criticized for being grounded in universalist assumptions that overlook culturally specific perspectives. The treaties the UDHR has inspired face similar criticism as requiring signatory states to uphold a shared set of rights and principles regardless of cultural, religious, or societal differences asserts the idea that certain human rights are inherent and inalienable to all individuals. This is because the legitimacy of international human rights law rests on the assumption that there are core principles of justice that rise above cultural, social, and political differences⁹. As a result, however, the debate between universalism and cultural relativism is often framed as a binary: to emphasize the cultural specificity of justice is seen as challenging the validity of international human rights law, while defending that legal framework is viewed as affirming the universal and normative authority of its principles¹⁰. This debate becomes especially clear when examined through real-world practices such as female genital mutilation in Somalia and arranged marriages in India, where culturally embedded traditions raise challenges to the application of universal human rights standards.

III. FGM in Somalia

Female genital mutilation (FGM) remains one of the most pervasive and harmful practices in Somalia, with a national prevalence rate of approximately 99% among women aged 15 to 49 in 2020¹¹. Defined by the World Health Organization as the partial or total removal of the external female genitalia for non-medical reasons, FGM affects the physical, psychological, social, and

⁹ Pillay, Navanethem. 2011. "Are Human Rights Universal? | United Nations." Un.org. United Nations. 2011. <https://www.un.org/en/chronicle/article/are-human-rights-universal>.

¹⁰ Binder, Guyora. 1999. "Cultural Relativism and Cultural Imperialism in Human Rights Law Cultural Relativism and Cultural Imperialism in Human Rights Law." https://digitalcommons.law.buffalo.edu/cgi/viewcontent.cgi?article=1281&context=journal_articles.

¹¹ Human Rights Watch. 2024. "Somalia: Constitutional Proposals Put Children at Risk | Human Rights Watch." Human Rights Watch. March 29, 2024. <https://www.hrw.org/news/2024/03/29/somalia-constitutional-proposals-put-children-risk>.

reproductive health of millions of women globally¹². Most girls undergo the procedure between the ages of five and nine, often without anesthesia and performed by traditional practitioners. A majority of these procedures are classified as Type III, or infibulation – known locally as "pharaonic circumcision" – which involves the removal and sewing shut of external genitalia, leaving only a small opening. This form of FGM is associated with severe and lasting physical and psychological consequences, including chronic pain, complications during childbirth, and long-term trauma.

From a universalist perspective, the practice of female genital mutilation in Somalia constitutes a clear violation of fundamental human rights, as outlined in multiple international legal treaties¹³. The UDHR affirms in Article 5 that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” which is a standard that FGM, particularly infibulation, breaches. Somalia’s widespread use of FGM also contravenes the ICCPR, which the country ratified in 1990¹⁴. Article 7 of the ICCPR prohibits torture and cruel, inhuman, or degrading treatment, while Article 24 specifically recognizes the right of every child to protection as required by their status as a minor. Additionally, the Convention on the Rights of the Child (CRC), to which Somalia acceded in 2015, obligates states to protect children from all forms of physical or mental violence, injury, abuse, or exploitation (Article 19)¹⁵. The African Charter on the

¹² WHO. 2025. “Female Genital Mutilation.” World Health Organization. World Health Organization. January 31, 2025. <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>.

¹³ Wilkinson, Dominic. 2014. “Cultural Relativism and Female Genital Mutilation | Practical Ethics.” Blog, [practicaethics.ox.ac.uk](https://blog.practicaethics.ox.ac.uk). February 7, 2014. <https://blog.practicaethics.ox.ac.uk/2014/02/cultural-relativism-and-female-genital-mutilation/>.

¹⁴ Danial, Sandra. 2013. “Cultural Relativism vs. Universalism: Female Genital Mutilation, Pragmatic Remedies.” *The Journal of Historical Studies* 2 (1): 1–10.

¹⁵ Cassman, Rachelle. 2007. “Fighting to Make the Cut: Female Genital Cutting Studied within the Context of Cultural Relativism Fighting to Make the Cut: Female Genital Cutting Studied within the Context of Cultural Relativism.” *Northwestern Journal of International Human Rights* 6 (1).

Rights and Welfare of the Child and the Maputo Protocol – both ratified by Somalia – explicitly condemn harmful traditional practices, including FGM, and mandate legislative and institutional measures to eliminate them¹⁶. Under the universalist framework, these rights are seen as inherent and inalienable, regardless of cultural or religious justifications. Therefore, Somalia’s failure to enforce existing constitutional protections and to criminalize FGM at the national level reflects not only a legal gap but also a profound breach of its international human rights obligations. From this perspective, cultural traditions cannot justify practices that inflict irreversible harm and violate the dignity and bodily autonomy of individuals.

On the other hand, from a cultural relativist standpoint, any attempt to address female genital mutilation must begin with a recognition of the practice's deep historical, cultural, and social roots¹⁷. Universalist narratives that depict FGM as an inherently "barbaric" or foreign practice often overlook the complex reasons why it persists and risk alienating the very communities whose cooperation is essential for meaningful change. In Somalia, where FGM is perceived by many as a rite of passage, a marker of moral integrity, and a safeguard of family honor, interventions grounded solely in universalist legal standards may be seen as culturally imperialist or dismissive of local values. Additionally, many African women, even those who have experienced FGM, do not necessarily perceive the practice as oppressive. Rather, some see it as a source of identity,

<https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1068&context=njihr>.

¹⁶ European Union Agency for Asylum. 2023. "REPORT | Female Genital Mutilation Is Still Widespread in Somalia." European Union Agency for Asylum. February 2023. <https://euaa.europa.eu/report-female-genital-mutilation-still-widespread-somalia>.

¹⁷ Mire, Sada. 2020. "We Won't Eradicate FGM If We Keep Misunderstanding Its History | Sada Mire." *The Guardian*, March 9, 2020, sec. Opinion.

<https://www.theguardian.com/commentisfree/2020/mar/09/eradicate-fgm-misunderstanding-history>.

female solidarity, and even empowerment within their cultural context¹⁸. In some cases, FGM is often upheld by women who have internalized the belief that the procedure protects their daughters' social standing and secures future economic benefits through increased "bridewealth." Thus, cultural relativists argue that effective solutions cannot be imposed externally but must come from within the communities themselves through culturally informed dialogue, education, and re-interpretation of tradition. Without this internal engagement, efforts to eliminate FGM risk reinforcing a legacy of cultural dominance and are likely to fail.

IV. Arranged Marriages in India

Arranged marriage remains a widely practiced and culturally significant institution in India, deeply embedded in familial, religious, and social structures. In this system, mate selection is typically guided or made by the elders of the family, with the marriage seen not just as a union between individuals, but as a strategic alliance between families. According to *Understanding Arranged Marriage: An Unbiased Analysis of a Traditional Marital Institution* by Naema Tahir's, arranged marriages function within a system rooted in hierarchy, collectivism, and parental authority, which are values that emphasize group cohesion over individual autonomy¹⁹. Although arranged marriages are often mistakenly equated with forced marriages in Western discourse, they are distinct in that they are based on familial consent and social harmony rather than coercion²⁰. Nonetheless, the

¹⁸ Abathun, Asresash Demissie, Johanne sundby, and Abdi Ali Gele. 2016. "Attitude toward Female Genital Mutilation among Somali and Harari People, Eastern Ethiopia." *International Journal of Women's Health* Volume 8 (October): 557–69.
<https://doi.org/10.2147/ijwh.s112226>.

¹⁹ Tahir, Naema. 2021. "Understanding Arranged Marriage: An Unbiased Analysis of a Traditional Marital Institution." *International Journal of Law, Policy and the Family* 35 (1).
<https://doi.org/10.1093/lawfam/ebab005>.

²⁰ Das, Madhumita. 2021. "Child, Early And Forced Marriage In India What We Know And What We Need To Know."

https://www.girlsnotbrides.org/documents/1539/FINAL-CB_India_ChildMarriageReport_Mar-4-2021.pdf.

boundaries between the two can become blurred, particularly in cases where pressure or economic necessity undermines free choice.

From a universalist perspective, arranged marriages may raise concerns when they impede individual rights to autonomy and free consent. Article 16(2) of the UDHR affirms that “marriage shall be entered into only with the free and full consent of the intending spouses.” Similarly, the ICCPR and the ICESCR reiterate that consent is central to the legitimacy of any marriage²¹. While the arranged marriage model may not inherently violate these principles, it often operates within cultural systems that blur the distinction between arrangement and coercion. In cases where young girls are pressured to accept marital matches under the weight of social obligation or familial duty, especially when such decisions are made at a very early age, these practices can drift toward a violation of international human rights standards. UNICEF notes that some forms of arranged marriage, particularly those involving children or clear economic coercion, mirror systems of modern-day slavery and strip individuals, particularly women, of agency over their lives and futures.

However, a cultural relativist perspective offers a markedly different lens. As Tahir argues, many critiques of arranged marriage are filtered through a Eurocentric framework that positions individual autonomy as the ideal and dismisses communal systems as inherently oppressive²². Yet, from a cultural relativist perspective, arranged marriage is not viewed as a “deficient” model, but rather as one that values intergenerational guidance, collective decision-making,

²¹ UNICEF. 2023. “Mona Knows Her Rights: Arranged Marriage Is Slavery.” Unicef.org. 2023. <https://www.unicef.org/montenegro/en/stories/mona-knows-her-rights-arranged-marriage-slavery>.

²² Tahir, Naema. 2021. “Understanding Arranged Marriage: An Unbiased Analysis of a Traditional Marital Institution.” *International Journal of Law, Policy and the Family* 35 (1). <https://doi.org/10.1093/lawfam/ebab005>.

and long-term social stability²³. Rather than being viewed as a limitation, parental involvement is seen as a form of guardianship rooted in wisdom, protection, and responsibility. Furthermore, the very goals of marriage differ across cultural contexts: while Western conceptions often emphasize romantic love and individual fulfillment, in other societies, marriage may be equally or more concerned with family status, economic stability, religious tradition, or spiritual duty²⁴. In India, marriage is frequently regarded as a social and familial alliance – too significant to be left to personal preference alone, especially when family honor, economic well-being, and inter-caste or inter-religious dynamics are at stake. Many women raised within this system do not perceive it as coercive; instead, they view it as a source of belonging and support within a tightly knit social structure²⁵. Thus, from the cultural relativist standpoint, applying universal standards of consent without accounting for cultural context may ignore the deep-rooted values and collective logic underpinning arranged marriages. Efforts to reform harmful practices should therefore distinguish between consensual arrangements and those involving coercion, while recognizing that cultural frameworks shape not only marital structures but also notions of autonomy and agency themselves. These reforms must involve coordinated efforts by multiple stakeholders – including local governments, civil society organizations, educators, and community leaders – who are uniquely positioned to shift social norms and

²³ Suri, Manveena . 2020. “Arranged Marriage in India Is Modernizing ... But Perhaps Not Fast Enough.” CNN. November 18, 2020.

<https://www.cnn.com/2020/11/18/asia/indian-arranged-marriage-dst-intl-hnk/index.html>.

²⁴ Young, William. 2011. “Marriage and Family in Western Civilization by William H. Young | NAS.” *Www.nas.org*. September 1, 2011.

https://www.nas.org/blogs/article/marriage_and_family_in_western_civilization.

²⁵ Raniwala, Praachi. 2020. “Why Some Indian Women Still Turn to Matchmakers to Find Love.” *The New York Times*, September 30, 2020, sec. Fashion.

<https://www.nytimes.com/2020/09/30/fashion/weddings/why-some-indian-women-still-turn-to-matchmakers-to-find-love.html>.

create protective environments for young women. According to *The Borgen Project*, organizations like Girls Not Brides and Childline India Foundation have worked alongside the Indian government to promote awareness campaigns and offer intervention services, such as helplines and shelter support, for girls at risk of forced marriage²⁶. Legal frameworks like the Prohibition of Child Marriage Act (2006) are essential, but without these grassroots and educational interventions that build girls' agency and foster parental support, enforcement alone proves insufficient. Therefore, successful reform requires a multilayered approach – one that empowers girls with knowledge and support, while engaging entire communities in redefining the purpose and ethics of marriage.

V. Universalism or Cultural Relativism?

Because the tension between these two theories lies at the heart of international law and its implementation, it is essential to find a balanced and principled approach to navigating their coexistence. As demonstrated through the case studies of female genital mutilation in Somalia and arranged marriages in India, this conflict becomes especially pronounced when deeply rooted cultural practices clash with internationally recognized human rights standards. While both frameworks offer compelling insights, a comparative analysis reveals that the universalist approach, though sometimes critiqued as rigid or culturally insensitive, ultimately produces fewer harmful consequences and provides a more consistent foundation for protecting fundamental human dignity.

While cultural relativism encourages sensitivity to local customs and social norms, it becomes ethically problematic when used to shield practices that

²⁶ Das, Madhumita. 2021. "Child, Early And Forced Marriage In India What We Know And What We Need To Know."

https://www.girlsnotbrides.org/documents/1539/FINAL-CB_India_ChildMarriageReport_Mar-4-2021.pdf.

cause demonstrable harm²⁷. When relativism is applied without limits, it can paralyze moral judgment and obstruct efforts to intervene against abuse. In this context, harm refers to actions or practices that result in mental or physical duress without prioritizing the well being or autonomy of the individual affected. In these cases, the women and girls subjected to female genital mutilation or coerced arranged marriages often experience significant and lasting suffering. These harms are frequently normalized or justified within cultural narratives, effectively silencing the voices and rights of those most directly impacted. The universality of certain rights, especially the right to bodily integrity, freedom from cruelty, and full and free consent, must override cultural practices when the two are in direct conflict. In this light, cultural relativism cannot provide a sufficient ethical framework for addressing systemic harm and should not be used to justify or excuse practices that violate internationally recognized human rights.

However, opposing harmful practices justified through cultural relativism does not require cultural erasure, it requires cultural engagement. The *Global Human Rights* initiative outlines human rights norms must be localized to take root²⁸ which means moving beyond top-down enforcement and working collaboratively with local leaders, educators, faith-based actors, and community-based organizations to translate universal rights into culturally resonant terms. For example, in Somalia, involving religious leaders in public education campaigns about the non-Islamic nature of FGM has shown promise. Similarly, in India, engaging elders and parents in reimagining arranged marriage as a practice rooted in consent and equality, rather than obedience and duty, can help reshape harmful traditions from within.

²⁷ Ernst, Gerhard. 2011. "Universal Human Rights and Moral Diversity." *De Gruyter EBooks*, November, 231–48. <https://doi.org/10.1515/9783110263886.231>.

²⁸ Fund. 2023. "5 Ways to Fight for the Future of Human Rights." The Fund for Global Human Rights. December 11, 2023. <https://globalhumanrights.org/stories/5-ways-to-fight-for-the-future-of-human-rights/>.

Efforts to embed universal principles into national cultures can also be supported through national legal actions. In both Somalia and India, enforcement of existing legal frameworks must be strengthened, but so too must their cultural legitimacy. Laws that prohibit FGM and forced marriage need to be reinforced by public awareness campaigns, rights education, and the empowerment of grassroots organizations that can serve as intermediaries between law and tradition. As the *The Borgen Project* suggests, success lies in combining legal deterrents with community-based education and protective services, such as hotlines, safe spaces, and school retention programs, that help girls assert their rights in environments where doing so alone may be impossible.²⁹

Thus, while universalism must be applied with cultural sensitivity and community engagement, it remains the more ethically defensible and practically effective approach in contexts of severe rights violations. Upholding a universal standard does not necessitate erasing cultural diversity, but it does require drawing clear lines when practices, no matter how historically entrenched, compromise basic human dignity. In navigating the complexities of international law and ethics, universalism emerges not as an imposition of one culture over another, but as a necessary and collaborative commitment to safeguarding the rights and well-being of all individuals, everywhere.

VI. Conclusion

The ongoing debate between universalism and cultural relativism represents one of the most enduring ethical challenges in the field of international law. The clash between global human rights norms and culturally rooted practices is not merely theoretical but has real and lasting implications for individuals, especially women and children, across the world. While cultural relativism offers

²⁹ Das, Madhumita. 2021. "Child, Early And Forced Marriage In India What We Know And What We Need To Know."

https://www.girlsnotbrides.org/documents/1539/FINAL-CB_India_ChildMarriageReport_Mar-4-2021.pdf.

valuable insights into the importance of respecting diversity and fostering culturally sensitive approaches, it falls short when used to justify practices that inflict lasting harm or deny basic freedoms. In contrast, universalism, despite its critiques, provides a more consistent and ethically grounded framework for protecting fundamental rights.

The strength of universalism lies not in its disregard for culture, but in its insistence that there are certain inalienable rights – such as the right to bodily autonomy, freedom from violence, and the ability to consent – that must be upheld irrespective of cultural or social context. As global human rights law continues to evolve, the task is not to abandon cultural understanding, but to ensure that it does not come at the cost of individual dignity and safety. True progress will come from a universalist framework that listens, adapts, and collaborates—but never compromises on the core principles that define human rights. In this way, international law can become not a force of imposition, but one of protection, equity, and shared humanity.