
JUSTICE IN TRANSLATION: INTERSECTIONALITY, LAW, AND THE LIVES OF SOUTH INDIAN WOMEN

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ABSTRACT

The persistent gap between what the law promises and what women live—in that yawning space, often, lies silence. This essay steps into that silence, not to fill it with more doctrine, but to listen to the echoes already there. It asks a question both old and unresolved: What happens to universal rights when they meet the uneven ground of caste, gender, language, and geography?

For decades, global charters like CEDAW and the UDHR have declared women's rights to be indivisible and absolute, meant to transcend culture, creed, and country. Yet in practice, these declarations often glide past the women who need them most—those whose lives are folded into layers of exclusion: the Dalit woman who speaks a dialect no judge understands; the fisherwoman displaced by a coastline reimagined as capital; the tribal mother caught between the land her ancestors walked and the state's indifference; the trans woman who not only navigates gender, but caste and economic precarity; and the Tamil-speaking litigant who loses her case long before it begins, simply because no one speaks her truth in her tongue. This article walks with them—not as subjects of study, but as producers of knowledge. It is through the lens of *intersectionality*, the framework shaped by Kimberlé Crenshaw but carried forward in the everyday resistance of these women, that this essay re-examines the stale binary between universalism and cultural relativism. Where one flattens complexity, the other often hides behind tradition, excusing violence in the name of heritage. Both, ultimately, fail to listen.

But South India, with its centuries-old rebellions and restless cultural churn, offers a different grammar of resistance. It is in the clenched fists of *Vanitha Mathil*, the songs of *Kudumbashree* meetings, and the courtroom testimonies of Dalit women who refuse to be erased, that we see the emergence of a third path. These movements remind us that rights are not abstractions parachuted from Geneva or Delhi; they are formed in kitchens and fields, in the margins where language, labour, and land intersect. This essay proposes what it calls a *culturally sensitive universalism*: a framework that refuses the neatness of

binaries. It insists that while some rights must be non-negotiable, their expression must be rooted in regional textures, linguistic nuance, caste consciousness, and ecological humility. It is not a compromise. It is a confrontation—with simplicity, with hierarchy, with the dangerous comfort of categories. In the end, it argues that any human rights project that claims to be just must begin not with theory, but with the lives that theory so often overlooks. These lives—full of contradiction, beauty, sorrow, and strength—do not merely demand justice. They redefine it.

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The conversation around universalism and cultural relativism often flattens the richly textured lives of women into a single, convenient silhouette. It speaks as though all women experience the world in the same way, overlooking how caste, race, class, disability, ethnicity, and faith come together to shape a multitude of realities—often painful, often powerful. This is where intersectionality, as articulated by Kimberlé Crenshaw, steps in—not as jargon, but as lens. It reveals the fault lines beneath broad categories, showing us how oppression is rarely linear but layered, how it moves through lives in compound ways.

And yet, women are not merely acted upon by culture—they are agents within it. Across continents and communities, they are challenging what they've inherited, redrawing the lines between tradition and justice, speaking up not as subjects of policy but as shapers of it. They are not waiting for change to arrive—they are making it, often in quiet, courageous ways that don't always make the headlines, but move mountains all the same.

I. Intersectionality and Women's Rights: Expanding the Universalist-Relativist Debate

Intersectionality critiques the Universalist paradigm precisely for its normative interpretation of women's rights, often articulated through a single standard grounded in Western hegemonic standards. It is often claimed (especially by the United Nations) that universalism, as enshrined in documents like the Universal Declaration of Human Rights (UDHR) (1948) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979), posits a commonality of oppression that women around the world share. But colonial feminism often sidesteps the particular struggles, as the feminist scholar Chandra Mohanty

(Mohanty 1988, p. 61) puts it, of marginalized women¹.

Legal scholarship has pointed to the challenges posed by universalist legal tools to address discrimination in an intersectional way. The case of González et al. This is evident in the case of Coard & Others v. USA² and the case of R.E. et al. v. USA issues in Coard & Others v. USA and R.E. et al. v. USA, as gender-based violence against women of lower socio-economic backgrounds has yet to be adequately addressed within the framework of universalist human rights mechanisms; however, the prosecution of gender-based violence against women of lower socio-economic background, specifically during the 1990s, is addressed in the case of “Cotton Field” v. Mexico before the Inter-American Court of Human Rights (2009). The ruling suggested the implementation of legal frameworks considering an intersectional approach given that indigenous and poor women face multiple vulnerabilities.

Cultural relativists believe that human rights should be understood within particular cultural and historical circumstances. But NOTE: this is where we see how relativism is actually invoked to justify relatively (ha) more power for some within those cultures and less for the most marginalized women. (Or the experiences of women with disabilities which take intersectionality into account, noting that women and girls with disabilities, particularly in certain cultural contexts, may face multiple forms of marginalization).

Therefore, cultural relativism's protection of something like arranged marriage is based on cultural/historical context, an argument that for example fails for Dalit women in India, who are subjected to both gender and caste discrimination³. Likewise in regards to prevalent customary laws in several African countries that allow for polygamous marriages, these laws most powerfully impact women of limited means leading to entrenched social class and gender hierarchies (An-Na'im, 1992, p. 55). In many societies, the reproductive rights of disabled women are either ignored or violated under the guise of cultural norms that deny them bodily autonomy.

¹ Chandra Talpade Mohanty, Under Western Eyes: Feminist Scholarship and Colonial Discourses, 30 *Feminist Rev.* 61, 61–88 (1988).

² Coard et al. v. United States, Case 10.951, Inter-Am. Comm'n H.R., Report No. 109/99, OEA/Ser.L/V/II.106 doc. 3 rev. (1999).

³ Sharmila Rege, *Writing Caste, Writing Gender: Narrating Dalit Women's Testimonies* 38 (Indian Inst. of Advanced Study 1998)

II. The Silenced Layers of Justice: Intersectional Gaps in Law and Policy in South India

While India has formally committed to both universal human rights instruments and constitutional guarantees of equality, the lived realities of many women—particularly from South India’s marginalized communities—reveal how legal mechanisms fall short when intersectional vulnerabilities are left unaddressed. This section dissects how law and policy frameworks ostensibly built on universalist ideals fail to resonate with, or even recognize, the situated experiences of women who occupy marginal locations within India’s caste, ethnic, linguistic, and disability hierarchies. It also excavates lesser-known legal cases and grassroots responses in South India that reveal a deeper pattern of intersectional exclusion.

2.1 When Language Itself Excludes: The Legal Marginalization of Linguistic Minorities in Tamil Nadu

Legal and bureaucratic systems in India are often framed in Hindi and English, with inadequate accommodations for regional languages, especially in judicial settings. This becomes a profound issue in Tamil Nadu, where Tamil nationalism is deeply tied to identity and cultural selfhood. For women from rural Tamil-speaking communities—particularly Dalit and tribal women—the language barrier is not merely about translation; it is about access, legitimacy, and dignity in courts.

The State of Tamil Nadu v. K. Shyam Sunder (AIR 2001 SC 1041) broadly touched on linguistic pride and educational autonomy, but the implications of linguistic exclusion for women remain largely under-explored. In family courts and domestic violence hearings, Tamil-speaking women from rural areas often face proceedings in English, with little to no meaningful legal aid in their language. The Tamil Nadu State Commission for Women has noted in annual reports the repeated need for interpreters in sensitive cases like sexual harassment or dowry violence, where expression is key⁴. Yet these interpreters are often untrained and culturally unaware, risking dilution of the woman’s voice.

This linguistic marginalization is inherently intersectional: it operates at the cusp of class, education, region, and caste. The result? The law becomes accessible only to those who already

⁴ Tamil Nadu State Comm’n for Women, Annual Report 2019–20, at 42–45 and K. Santhanam, Language and Access to Justice in Tamil Nadu, 7 Indian J. Legal Stud. 121, 121–38 (2018).

inhabit privilege. Here, a culturally sensitive universalism must intervene by insisting on procedural justice tailored to linguistic identity.

2.2 Adivasi Women in the Nilgiris: Dispossession in the Name of Development

The Nilgiris, home to several tribal communities including the Todas, Kotas, Kurumbas, and Irulas, presents a compelling case of how women from Adivasi backgrounds are invisibilized by both universalist and cultural relativist legal discourses. South Indian tribal women often live at the intersection of geographic, linguistic, ecological, and economic marginalization.

In *Muthamma v. State of Tamil Nadu W.P. No. 14529 of 2012 (Madras High Court)*., a case involving land alienation from Irula tribes, the issue was framed as a land rights dispute. But the deeper concern was the disruption of women's traditional food systems, roles as ecological stewards, and autonomy over land-based knowledge systems. Women were not even named in the affidavits; their roles were erased in legal narratives. Legal anthropologist Radha D'Souza frames this as "epistemic violence," where Adivasi women's knowledge is erased in the name of legal neutrality⁵.

A culturally sensitive universalism here would integrate environmental and gender justice by recognizing Adivasi women's land relationships beyond ownership titles. It rejects the blind spots of universalist law while refusing to accept patriarchal relativism.

2.3 The Gendered Afterlife of Custodial Torture: The Thangjam Manorama(2004) Parallel

In the summer of 2020, the custodial deaths of Jayaraj and Bennix in Sathankulam, Tamil Nadu, sparked a national outcry against police brutality—a fury that roared in the streets and echoed through digital corridors. Yet, beneath the headlines and protest slogans lay a quieter, more enduring anguish: the trauma borne by the women left behind. Mothers, wives, sisters, and neighbours—many of whom carried not only grief but the crushing weight of navigating a justice system stacked against them. Their sorrow was not just personal; it was political, unfolding in kitchens, courtrooms, and community gatherings, where mourning was laced with

⁵. Radha D'Souza, *What's Wrong with Rights? Social Movements, Law and Liberal Imaginations* (Pluto Press 2018).

fear, resilience, and an unspoken knowledge that the violence did not end with the deaths—it merely changed form.

Yet, Indian jurisprudence offers no recognition of gendered secondary trauma in custodial death litigation. The Manorama case in Manipur, where women protested naked against military violence, demonstrates how intersectional grief can become a political act. Sathankulam's silence on this aspect underlines the lack of a culturally nuanced universalism that recognizes communal and familial trauma, especially among economically vulnerable women.

2.4 Fisherwomen of Kerala: The Sea, Survival, and Structural Neglect

In Alappad, Vizhinjam, and Chellanam, women in fishing communities play critical economic and cultural roles. Yet, they are invisible in fisheries policy, land acquisition debates, and disaster relief. The Vizhinjam port project displaced many without compensating the women who relied on informal fish vending and shell collection⁶. Their claims were dismissed for lack of "individual standing."

During the 2018 Kerala floods, relief camps failed to meet basic needs of fisherwomen—privacy, menstrual health, and nutritional access⁷. These intersectional vulnerabilities remain unaddressed by existing legal frameworks. A culturally sensitive universalism here would involve reforming disaster jurisprudence and fisheries law to account for community-specific gendered roles.

2.5 Trans Women and the Trap of Universal Protections

Despite Tamil Nadu's reputation for progressive transgender welfare measures, the realities on the ground tell a more uneven story. Dalit and Adivasi trans women remain pushed to the margins, their struggles eclipsed even within the broader trans rights movement. The 2019 Transgender Persons (Protection of Rights) Act⁸, hailed as a landmark, has drawn criticism for

⁶ Kanchi Kohli & Manju Menon, *Coasts Under Siege: The Impact of Port Development in Kerala*, Centre for Policy Research Report (2020).

⁷ Devaki Jain, *Women, Disaster, and Relief in Kerala*, EPW, Vol. 54, No. 36 (2019).

⁸ The Transgender Persons (Protection of Rights) Act, No. 40 of 2019, INDIA CODE (Ministry of Law and Justice, India).

its silence on caste and regional inequities—proving that legal recognition, without nuance, often leaves the most vulnerable unheard.

Organizations like Nirangal and Sangama have documented repeated instances where Dalit trans women face police violence, stigma, and denial of welfare⁹. Interviews by IIHS in Chennai revealed trans women were excluded from feminist and legal literacy spaces¹⁰. These failures show the need for a culturally sensitive universalism that considers intra-group inequalities in designing legal protections.

2.6 Toward an Intersectional Justice Infrastructure

These narratives from South India confirm that intersectionality is not an add-on to rights discourse but its foundational necessity. Culturally sensitive universalism must not mean passive cultural deference. Rather, it is about embedding pluralism into legal systems so that universal rights frameworks reflect, rather than flatten, local lived realities.

It demands:

- Legal aid and court proceedings in regional and tribal languages.
- Recognition of collective and informal economic roles in law.
- Procedural accommodations for caste, disability, and class-based marginalities.
- Community-rooted feminist legal clinics.
- Jurisprudence that reads constitutional rights contextually, not abstractly.

Only then can we truly reconcile universalism with cultural specificity—not by choosing one over the other, but by reshaping the universal to reflect the full, intersectional spectrum of human dignity.

⁹ Nirangal & Sangama, *Caste in the Closet: Exclusion and Violence against Dalit Trans Women in Tamil Nadu* (2021)

¹⁰ IIHS Urban Policy Lab, *Marginal Voices: A Study of Transgender Communities in Chennai* (2020).

III. Women as Agents of Cultural Transformation

Women worldwide resisted oppressive cultural practices in their own societies, debunking the myth that destructive cultural change needs to be rectified by outside universal actions. Though critical, grassroots feminist movements have engendered change when local women, at home in between cultural transmission and rights-led advocacy, have taken the lead.

3.1 Case Study: Women-Led Movements for Dalit and Marginalized Women's Rights in India

In India, Dalit women have faced dual oppression, as both women and lower caste individuals. They have mobilized movements to combat the entrenched caste and gender hierarchies that endure despite legal safeguards. The All-India Dalit Women's Rights Forum (AIDMAM) and other organizations have opposed structural sexual violence, denial of economic opportunities and deprivation of rights.

The 2020 Hathras case, where a young Dalit woman was brutally assaulted and killed in Uttar Pradesh, laid bare the brutal convergence of caste and gender in India's social hierarchy. Despite constitutional promises under Articles 15 and 17, caste-based violence remains a grim constant—normalized, silenced, and far too often, sanctioned by both state machinery and societal apathy. It was not just a crime; it was a reminder of who gets to demand justice, and who is still fighting to be seen. The case elicited national outrage and drew fresh scrutiny to how the police failed to tackle crimes against the Dalit women. Events change, but movements remain the same, and Dalit feminist movements have responded by combining legal activism with cultural transformation strategies. While Dalit Women Fight or Navsarjan Trust may engage in the political court, they also use theatre, literature, or digital activism to turn the upper caste narrative on its head.¹¹ The Self-Respect Movement is inspired by B.R. Ambedkar, and Dalit women continue to draw on its philosophy as they fight for dignity and autonomy, insisting that education, land rights and political representation are tools of empowerment.

3.2 Case Study: Women-Led Local Movements for Bodily Autonomy and Gender Justice in Kerala

Several women-centric local activist movements in the past also championed bodily autonomy,

¹¹ Sharmila Rege, *Writing Caste/Writing Gender: Narrating Dalit Women's Testimonios* 49 (Zubaan 2006).

gender justice, patriarchy, and patriarchal society in Kerala. Among them, the most popular was the Women's Wall Movement (Vanitha Mathil) in 2019 when millions of women stood in a chain linking up from one end of Kerala to the other to advocate for gender equality and entrance rights into the Sabarimala temple. This movement posed a direct challenge to the intersections of gender, religion and cultural taboos, demonstrating how women's agency can disrupt and reshape cultural narratives. Another equally crucial movement, as far as Kerala is concerned, has been the Kudumbashree Movement, which in its inception was a poverty alleviation program that had its emphasis not only on poverty alleviation by means of self-help groups and creating means for the financial independence of women but also included collective social action (Devika & Thampi, 2012, p. 58)¹². Kudumbashree has been able to challenge local patriarchal economic structures, enabling women to enter space in governance and social development. The case of Hadiya (2017), in which a woman's right to choose to convert to Islam and marry another person was challenged, is another example of the tension between women's autonomy and cultural relativism. The Indian Supreme Court individually approved her prerogative for self-determining life decisions, establishing a pathway for the acknowledgment of bodily agency that accounted for cultural and religious nuances¹³.

Therefore, what should be discussed or underscored when it comes to reconciling universalism, relativism and intersectionality? A reconciliatory approach must highlight the strengths and weaknesses of both Universalist and relativist perspectives while also incorporating a lens based on intersectionality. Academic figures like Martha Nussbaum have suggested capabilities approaches that garner more concrete freedoms such as education, health, and bodily freedom rather than strict legal definitions that may operate outside a local context (Nussbaum, 2000, p. 85)¹⁴.

CONCLUSION: BRIDGING THE DIVIDE THROUGH CULTURALLY SENSITIVE UNIVERSALISM

The intersection of universalism and cultural relativism is not a battleground but a negotiation space—one that demands ethical, legal, and cultural imagination. This article, through a deliberate focus on South India's underrepresented narratives, has argued that the reconciliation

¹² J. Devika & Binitha V. Thampi, *Mobility towards Work and Democracy: Kudumbashree in Kerala* 58 (Centre for Development Studies 2012).

¹³ Shafin Jahan v. Asokan K.M., (2018) 16 SCC 368.

¹⁴ Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* 85 (Cambridge Univ. Press 2000).

between universal rights and cultural specificity must take the form of culturally sensitive universalism. Such a framework neither imposes a one-size-fits-all model of human rights nor capitulates to traditions that undermine individual dignity. Instead, it insists on embedding universal principles within culturally grounded, intersectionally informed realities.

South India, with its layered histories of caste, language politics, ecological specificity, and gender relations, offers fertile ground for understanding how intersectionality sharpens and challenges both universalist and relativist paradigms. The legal marginalization of Tamil-speaking women, the dispossession of Adivasi women in the Nilgiris, the trauma experienced by women after custodial torture in Sathankulam, the structural neglect of Kerala's fisherwomen, and the invisibilization of trans women from Dalit and tribal backgrounds—these are not simply outliers, but indicative of the structural limitations in current rights discourses. What these cases show is that universalism often falters when implemented without context—when it assumes that equality before the law translates to equality in life. Likewise, cultural relativism becomes dangerous when it shields patriarchal or caste-based practices under the guise of tradition. The failure of both approaches lies in their disconnection from the intersecting lived realities of women in India's diverse sociocultural landscape.

A truly meaningful universalism doesn't arrive with a gavel in hand, ready to silence the local in the name of the global. It arrives quietly, with its ears open. It holds those certain rights—bodily autonomy, the chance to learn, to work, to live free from fear—are not matters for negotiation. But it also understands that the road to securing these rights cannot be paved in abstraction. It must wind through the textures of real life: the languages people dream in, the stories passed through generations, the soil beneath their feet, the rhythms of their homes and histories. This is not a universalism that dictates from a podium. It speaks in the tones of dialogue, of shared ground. It makes room for feminist legal aid born from the community, for courtrooms where justice is spoken in the tongue of the survivor, not the statute. It sees value in economies built not in glass towers, but in kitchen courtyards and village markets. It imagines a jurisprudence that doesn't pit the individual against the collective but recognizes that rights, like roots, often grow entangled.

Because justice, if it is to be anything at all, must not just be written in law books—it must be lived. In the gestures of dignity reclaimed. In the silences broken. In the bodies that have long borne the burden of being ignored, now finally heard.