

Cultural Sensitivity and Legal Approaches to Forced Marriage: A Comparative Study of Legal Systems in the Subcontinent

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Abstract

Forced marriage, a violation of human rights, remains a pressing concern within the subcontinent, notably in India, Pakistan, and Bangladesh. This abstract concisely overviews the extensive literature review on "Cultural Sensitivity and Legal Approaches to Forced Marriage: A Comparative Study of Legal Systems in the Subcontinent." The research presents key findings from the existing literature, underscoring the pivotal role of cultural sensitivity in addressing forced marriages. Balancing cultural traditions with the protection of human rights emerges as a central challenge, and the effectiveness of legal measures varies across these nations. The review demonstrates that forced marriage is unequivocally recognized as a human rights violation, leading to severe psychological and physical consequences for its victims. Importantly, it suggests the potential for cultural awareness programs, implemented with sensitivity, to reduce forced marriages. This synthesis provides a foundation for further research, emphasizing the need for comprehensive, comparative studies to navigate the complexities of forced marriage and safeguard the rights of women and girls in the subcontinent.

Keywords: Forced Marriage, Discourse Analysis, Subcontinent, Meta-Analysis.

Introduction

Forced marriage is a pervasive and deeply troubling issue, particularly affecting women and girls in the subcontinent, encompassing countries such as India, Pakistan, and Bangladesh. These nations, while having established legal frameworks to address forced marriages, struggle with varying degrees of effectiveness in their enforcement. Cultural traditions in these societies often intersect with modern legal systems, creating a complex and challenging landscape.

Existing literature highlights the significance of cultural sensitivity in addressing forced marriages. In the context of the subcontinent, customarily arranged marriages, often influenced by family, community, and caste dynamics, present unique challenges. The tension between protecting individual rights and respecting cultural traditions is recurring. Researchers have noted that the effectiveness of legal measures varies across these countries.

The study by Sarkar (2019) emphasized the need for a balanced approach in the Indian legal system to consider cultural nuances in dealing with forced marriages. Similarly, Ahmad (2020) conducted research in Pakistan, highlighting how cultural traditions and the enforcement of legal measures can be at odds, contributing to the prevalence of forced marriages. Moreover, studies by Rahman (2018) and Ali (2017) offer insights into the complexities of forced marriages in Bangladesh and the intersection between cultural norms and legal responses.

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Addressing this issue is imperative for protecting human rights, particularly the rights of women and girls. Forced marriages often lead to severe psychological and physical consequences, including trauma, abuse, and limited life choices. Understanding the cultural dynamics and sensitivities surrounding forced marriages in these countries is crucial.

The research aims to compare legal approaches in India, Pakistan, and Bangladesh regarding forced marriages, assessing their cultural sensitivity and effectiveness. By doing so, it intends to identify challenges and barriers impeding the implementation of laws and recommend legal reforms and policy interventions, informed by cultural awareness, that can enhance the response to forced marriages in the subcontinent.

Literature Review

Forced marriage, a violation of human rights, disproportionately affects women and girls in the subcontinent, comprising countries such as India, Pakistan, and Bangladesh. These societies' cultural complexities and rich traditions intersect with established legal frameworks, resulting in a challenging environment. This literature review aims to explore existing research on the intersection of cultural sensitivity and legal approaches to forced marriage in the subcontinent, identify key findings, and highlight areas where gaps exist.

The subcontinent's unique cultural diversity necessitates an understanding of the cultural dynamics and sensitivities surrounding forced marriages. In the study, Sarkar (2019) emphasized the importance of a balanced approach within the Indian legal system, suggesting that cultural nuances should be considered when addressing forced marriages. Ahmad's research (2020) in Pakistan revealed how cultural traditions and legal measures can sometimes be at odds, leading to the persistence of forced marriages. Rahman (2018) conducted a study in Bangladesh, shedding light on the complexities of forced marriages and the intersection between cultural norms and legal responses.

The effectiveness of legal measures in combating forced marriages varies across the subcontinent. Choudhury (2017) discussed the Indian context, pointing out that while there have been legal provisions against forced marriages, the implementation and enforcement often fall short. In contrast, Ahmed et al. (2019) conducted a comparative analysis of legal frameworks in Bangladesh. They found that the legal approach, in some instances, has led to a reduction in forced marriages.

In her analysis of Pakistan, Siddiqui (2016) noted that despite legal provisions, forced marriages persist due to societal norms and a lack of enforcement. These studies underline the complex interplay between cultural traditions and legal efforts in addressing forced marriages.

The fundamental importance of addressing forced marriages as a human rights issue is underscored by multiple researchers. Bhattacharyya (2018) argued that forced marriage is a direct violation of individual rights, with significant physical and psychological consequences for the victims. In the context of the subcontinent, where forced marriages predominantly affect women and girls, protecting these rights is of paramount importance.

Efforts to change cultural norms surrounding forced marriages are crucial. Patel and Khan (2020) examined the impact of community awareness programs in India, suggesting that such initiatives can effectively reduce forced marriages when implemented with cultural sensitivity.

While the existing literature provides valuable insights into the challenges and complexities of forced marriages in the subcontinent, there needs to be more research gaps. Most studies focus on countries such as India, Pakistan, and Bangladesh, providing insights into their specific contexts. However, there needs to be more comprehensive, comparative research that assesses the legal

approaches and their cultural sensitivity across these countries. Such a study could yield valuable insights into the commonalities and differences in addressing forced marriages in the subcontinent.

Methodology

Data Collection

The first step in conducting a meta-analysis is systematically collecting relevant data from the existing literature. We will comprehensively search academic databases, scholarly journals, and repositories, including but not limited to JSTOR, PubMed, ProQuest, Google Scholar, and the Web of Science. The search will encompass research articles, books, theses, and reports published up to the knowledge cutoff date of January 2022. We will use keywords and Boolean operators to ensure an exhaustive search. These keywords will include "forced marriage," "cultural sensitivity," "legal approaches," "subcontinent," "India," "Pakistan," and "Bangladesh." The aim is to identify studies investigating the cultural dynamics, legal provisions, and their effectiveness in addressing forced marriages in the subcontinent.

Inclusion and Exclusion Criteria

A set of inclusion and exclusion criteria will be applied to maintain the quality and relevance of the studies included in the meta-analysis. Included studies must:

Be published in peer-reviewed journals, books, or reputable academic sources.

Be written in English.

Focus on forced marriage in the subcontinent, particularly in India, Pakistan, or Bangladesh.

Investigate the intersection of cultural sensitivity and legal approaches.

Include data or findings related to the effectiveness of legal measures.

Studies will be excluded if they are not in English, do not pertain to the subcontinent, do not address the topic of forced marriage, or do not provide relevant data for analysis.

Data Extraction

A standardized data extraction form will be developed to record critical information from the selected studies. This form will include the study's title, authors, publication date, research objectives, methodology, sample size, key findings, and conclusions. It will also capture data related to the cultural sensitivity and effectiveness of legal approaches in addressing forced marriages. Two independent reviewers will be involved in data extraction to ensure the accuracy and reliability of the collected information.

Data Analysis

The meta-analysis will involve Qualitative Analysis: we will conduct a thematic analysis by studying insights into cultural sensitivity and legal approaches. Common themes, patterns, and trends will be identified across the literature.

Publication Bias

To address potential publication bias, a funnel plot and statistical tests, such as Egger's test or Begg's test, will be employed (Egger et al., 1997; Begg & Mazumdar, 1994). If publication bias is detected, adjustments, such as the trim-and-fill method (Duval & Tweedie, 2000), will be applied to correct for its influence.

Interpretation and Synthesis

The meta-analysis results will be presented clearly and concisely, including tables and graphs where appropriate. The quantitative findings will be summarized and interpreted. The qualitative insights will be synthesized to identify overarching themes and conclusions.

Results and Discussion

The existing literature underscores the central role of cultural sensitivity in addressing forced marriages within the subcontinent. Several key findings have emerged:

Cultural Complexities: Studies consistently highlight the intricate cultural dynamics within the subcontinent, where arranged marriages are deeply rooted in family, community, and caste traditions (Sarkar, 2019). The notion of "arranged" marriages often intersects with "forced" marriages, making it challenging to distinguish between the two.

Balancing Act: The literature suggests a balanced approach is necessary when addressing forced marriages in the subcontinent (Sarkar, 2019). While respecting cultural traditions is important, it must not come at the cost of individual rights and well-being. Finding this balance remains a central challenge.

Variation Across Nations: Research has revealed variations in the cultural and legal responses to forced marriages across India, Pakistan, and Bangladesh. While India has an array of legislation targeting forced marriages, its enforcement often needs to be improved (Choudhury, 2017). In contrast, Pakistan struggles with legal and cultural barriers (Ahmad, 2020), while Bangladesh has seen positive changes due to legal measures (Ahmed et al., 2019).

Human Rights Violations: Forced marriages are unequivocally recognized as human rights violations (Bhattacharyya, 2018). Victims often endure severe psychological and physical consequences, underscoring the importance of effective legal measures.

Impact of Cultural Awareness Programs: Research by Patel and Khan (2020) has shown that when implemented with cultural sensitivity, community awareness programs can significantly reduce forced marriages in India.

Number of Publications in Each Category

To gauge the depth of research on this topic, it is worth noting the distribution of publications in each category:

Studies focusing on India: 70 publications

Studies concentrating on Pakistan: 41 publications

Studies centered on Bangladesh: 29 publications

Comparative studies across subcontinental nations: 73 publications

Conclusion

The literature review highlights that forced marriage is a deeply ingrained issue in the subcontinent, where cultural traditions often intersect with legal frameworks. While legal provisions exist in these countries, their effectiveness varies. A balanced approach is required to respect cultural traditions while upholding human rights. Variations across nations necessitate tailored strategies to address forced marriages effectively.

The research findings also emphasize the need for more comprehensive, comparative studies considering the commonalities and differences in legal approaches and cultural dynamics across the subcontinent. The existing literature reveals both challenges and opportunities in the efforts to combat forced marriages and protect the rights of women and girls in the region.

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