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❧ CONTENTS OF ENGLISH PART - III ❧

S.No.	Title & Author	Page No.
1	From Right to Life to Right to Die with Dignity- A Constitutional Study of Euthanasia in India Shruti Amit Madhavi	1-7
2	Medical Negligence as Violation of the Right to Life and Health: A Legal and Constitutional Analysis in India Dr. Komal Namdevrao Khajone Ms. Prachi Milind Satpute	8-14
3	Medical Negligence as Violation of the Right to Life & Healthy Ms. Amruta Suryawanshi	15-21
4	Harmonizing International Human Rights Obligations in the Indian Constitutional Principles Mrs. Varsha Badwe Mrs. Sonali Sharma	22-30
5	Medical Experimental Health Record Confidentiality in Clinical Trials Mr. Kalichand Govardhan Dr. Pratima R. Lokhande	31-38
6	Access to Justice Vs. Abuse of Process: Evaluating Parallel Maintenance Claims under The Hindu Law Adv. Nilesh Shivaji Bagade Prof. Dr. Avani Mistry	39-45
7	Gender Inequality at Work: A Socio-Legal Study of Economic Disparities and Discrimination against Women Dr. Sanavi Deshmukh Mrs. Ravnish Bector	46-52
8	Blockchain and Ip Protection Adv. Chetna Sharad Bhoir	53-59
9	Reimagining The Law on Child Marriage in India: Constitutional Morality, Enforcement Gaps, and The Need for Structural Reform Ms. Pooja Bijjargi	60-67

4. Harmonizing International Human Rights Obligations in the Indian Constitutional Principles

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Abstract

The evolution of human rights protection has increasingly relied upon the interplay between international human rights treaties and domestic constitutional systems. India, a democratic republic committed to the protection of fundamental rights, has ratified numerous international human rights treaties including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Although international treaties do not automatically become part of domestic law in India, the judiciary has played a crucial role in interpreting constitutional provisions in light of international human rights norms. This paper examines the mechanisms through which international human rights treaties are integrated into Indian constitutional governance. It analyses constitutional provisions, judicial interpretations, and landmark decisions of the Supreme Court that have facilitated the incorporation of international human rights standards into domestic jurisprudence. The paper further explores the challenges and prospects of harmonizing international obligations with national sovereignty and legislative framework. The study concludes that while India follows a dualist approach, judicial activism and constitutional interpretation have significantly contributed to bridging the gap between international human rights commitments and domestic enforcement.

Keywords: - Convention, Constitution, Human Rights, United Nation, UDHR

I. Introduction

Human rights embody the shared ethical and legal commitments of the international community to safeguard the inherent dignity, equality, and liberty of every human being. The concept of human rights has evolved through historical experiences marked by colonialization, oppression, and systemic discrimination. The devastating consequences of the Second World War significantly strengthened the global determination to establish mechanisms for the protection of human rights.

before the law, freedom of speech and expression, protection against arbitrary detention, and the right to life and personal liberty.

Together, the Fundamental Rights and Directive Principles represent a comprehensive vision of human rights protection that reflects both civil-political freedoms and socio-economic welfare, similar to the integrated approach found in international human rights instruments.⁴

Under a Indian dualist system, international agreements do not automatically acquire the status of domestic law merely upon ratification by the state. Instead, specific legislative action is usually required to translate treaty obligations into enforceable municipal law. This approach reflects the constitutional principle that Parliament retains the authority to determine how international commitments should be implemented within the national legal system. While this structure preserves legislative sovereignty, it also limits the direct applicability of international treaties before domestic courts in the absence of implementing legislation.

Nevertheless, the Indian judiciary particularly the Supreme Court of India has played a significant role in reducing the gap between international obligations and domestic legal practice. Through progressive interpretation of constitutional provisions, courts have frequently referred to international human rights standards while expanding the scope of constitutional protections. A notable example of this approach can be seen in the interpretation of Article 21 of the Constitution, which guarantees the right to life and personal liberty.⁵ Judicial decisions have interpreted this provision in a broad and dynamic manner, recognizing within it several derivative rights such as the right to livelihood, the right to health, the right to education, the right to privacy, and the right to a healthy environment. In many instances, courts have drawn guidance from international human rights principles while developing these interpretations.

Although India formally adheres to a dualist model, the judiciary has often adopted a harmonious interpretative approach by aligning domestic constitutional principles with international human rights norms wherever possible. As a result, international human rights treaties have played an important role in shaping the evolution of constitutional rights and strengthening the framework for the protection of human dignity within the country. This ongoing dialogue between global human rights standards and constitutional interpretation remains a significant feature of contemporary Indian legal thought and highlights the judiciary's contribution to the promotion of justice, equality, and human dignity.

India ratified the Convention on the Elimination of All Forms of Racial Discrimination (CERD) in 1968,¹⁰ undertaking to eliminate racial discrimination and promote equality among all individuals. In addition, India ratified the Convention on the Rights of Persons with Disabilities (CRPD) in 2007,¹¹ committing itself to ensure non-discrimination, accessibility, inclusive education, and equal recognition before the law for persons with disabilities. To fulfill its obligations under the CRPD, India enacted the Rights of Persons with Disabilities Act, 2016.

International Labour Organization (ILO) Conventions

India is a founding member of the International Labour Organization established in 1919¹² and has ratified several core labour conventions aimed at protecting fundamental labour rights. These include conventions addressing forced labour, the abolition of forced labour, equal remuneration, and the worst forms of child labour.

III. Constitutional Framework for Incorporating International Law

The Constitution of India provides certain provisions that facilitate the incorporation of international law into domestic governance.

Article 51 of the Constitution directs the State to foster respect for international law and treaty obligations. Though it is part of the Directive Principles of State Policy, it reflects India's commitment to international cooperation and legal obligations. Article 253 empowers Parliament to enact laws for implementing international treaties and agreements. This provision allows the Indian legislature to give domestic effect to international obligations. Article 372 recognizes the continuation of pre-existing laws, including customary international law, provided they are not inconsistent with constitutional provisions.

IV. Judicial Approach to International Human Rights Norms

Indian courts have played a significant role in bridging the gap between international obligations and domestic law. The judiciary has consistently adopted the principle that international treaties can guide constitutional interpretation when they do not conflict with domestic laws. *Vishaka v. State of Rajasthan* (1997)¹³, wherein, the Hon'ble Supreme Court relied on CEDAW to formulate guidelines for preventing sexual harassment at the workplace. The Court held that international conventions consistent with fundamental rights could be used to interpret constitutional guarantees.

The interpretation of Fundamental Rights by the judiciary has undergone significant development in India. A notable example of such interpretative development can be seen in the

landmark judgment of *Kesavananda Bharati v. State of Kerala* (1973). In this case, Chief Justice S. M. Sikri observed that when the language of domestic or municipal law appears ambiguous, incomplete, or inconsistent with broader legal principles, the courts may refer to relevant international norms and authorities for guidance. This approach recognizes that constitutional interpretation should be informed by universally accepted legal values, particularly in matters concerning human rights and fundamental freedoms.¹⁴

In recent years, this interpretative trend reflects the Indian judiciary's willingness to harmonize national legal principles with global human rights standards. By doing so, the courts ensure that constitutional guarantees remain dynamic and responsive to evolving international norms, thereby reinforcing the protection of fundamental rights within the constitutional framework.

V. Conclusion

India has ratified a broad spectrum of international human rights treaties, demonstrating its commitment to global human rights standards. Although the dualist nature of its legal system requires legislative incorporation for direct enforceability, Indian courts particularly the Supreme Court have frequently relied upon these international instruments to interpret and expand constitutional rights, thereby strengthening human rights protection within the country.

The integration of international human rights treaties into Indian constitutional governance represents a dynamic process shaped by constitutional provisions, legislative action, and judicial interpretation. However, the absence of comprehensive implementing legislation for several treaties continues to pose challenges. Strengthening the integration of international human rights conventions into Indian governance is essential for advancing justice, equality, and human dignity. Legislative reforms, stronger institutions, judicial engagement, and policy alignment collectively contribute to this process. Such integration ultimately promotes a more effective and responsive system for the protection of human rights in a democratic society.

VI. Suggestions

The growing interaction between international human rights law and domestic constitutional principles has created significant opportunities for strengthening the protection of human rights in India. Although India has ratified several international human rights conventions and treaties, the effective implementation of these commitments within the domestic legal framework remains a continuing challenge. Strengthening the integration of international human

II. International Human Rights Treaties Ratified by India

India has ratified a wide range of international human rights treaties that significantly influence its domestic legal and constitutional framework. As a founding member of the United Nations, India has consistently participated in the development of global human rights norms. However, being a dualist state, international treaties ratified by India do not automatically become enforceable in domestic courts unless incorporated through parliamentary legislation. Despite this, such treaties play a crucial role in shaping policy, legislation, and judicial interpretation, particularly in the expansion of fundamental rights under the Constitution of India.

Core United Nations Human Rights Convention/ Treaties

India ratified the International Covenant on Civil and Political Rights (ICCPR) in 1979,⁶ after its adoption in 1966. The Covenant guarantees essential civil and political rights, including the right to life, freedom of speech and expression, freedom of religion, protection against torture, and equality before the law. In the same year, India also ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR),⁷ which complements the ICCPR by recognizing socio-economic rights such as the right to work, education, health, and an adequate standard of living. These rights closely align with the Directive Principles of State Policy contained in Part IV of the Indian Constitution, reinforcing India's commitment to social and economic justice.

India further demonstrated its commitment to gender equality by ratifying the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1993.⁸ This Convention seeks to eliminate discrimination against women in political, economic, social, cultural, and family spheres. India, however, entered reservations particularly concerning Article 16, which deals with equality in family relations, citing the diversity of personal laws in the country.

The protection of children's rights is ensured through India's ratification of the Convention on the Rights of the Child (CRC) in 1992.⁹ The Convention establishes comprehensive safeguards relating to child survival, development, protection from exploitation, and participation rights. India has also ratified two Optional Protocols to the CRC, addressing the involvement of children in armed conflict and the sale of children, child prostitution, and child pornography, thereby strengthening child protection measures.

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