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The Impact of International Human Rights Law on National Legislation

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International human rights laws have emerged as a basis of the modern legal system. These laws mainly rely on universal principles that aim to uphold justice, equality and human dignity. These principles are articulated through various treaties, conventions, and declarations, and they serve as normative benchmarks for states worldwide. Over time, many nations have integrated international human rights norms into their domestic legal frameworks, including constitutional provisions, judicial interpretations and legislative reforms. This incorporation reflects a commitment to aligning domestic governance with globally accepted standards. However, the extent and effectiveness of such integration vary significantly across jurisdictions. While some states constitutionally entrench these rights, others adopt them selectively through legislation or judicial activism. But even where legal provisions exist, their implementation often faces challenges due to political resistance, cultural constraints, lack of institutional capacity or socio-economic barriers. This paper explores the role of international human rights law in shaping national legal systems. It examines the gaps between legal recognition and practical enforcement, emphasising the need for sustained efforts to ensure meaningful realisation of human rights at the national level. Ultimately, the study underscores the importance of international cooperation and institutional accountability in translating international human rights obligations into effective domestic protections.

Keywords: *human rights law, constitutional integration, legal framework, implementation challenges, treaties.*

INTRODUCTION

International human rights law serves as a global standard for ensuring justice, equality and dignity. Over the years, Nations all over the globe have integrated various international human rights principles into their legal framework, including constitutional rights, judicial decisions and legislative reforms. Treaties, conventions, precedents and declarations set universal standards, which states integrate into their domestic frameworks. While some nations incorporate international human rights norms into their constitutions, some do not, and some do incorporate laws but struggle with implementation due to political, cultural or other barriers.

MEANING OF INTERNATIONAL LAW

International law is the body of law which is composed for the greater part of the principles and rules of conduct which states feel themselves bound to observe and commonly observe in their relations with each other.¹ International law is a body of legal rules, norms or standards that governs relations between sovereign states, international organisations and to a limited extent, individuals. It generally derives from international treaties, customary international law, general principles recognised by civilised nations, judicial decisions of international courts and writings of jurists. Article 38(1) of the ICJ Statute outlines the primary sources of international law and is widely regarded as an authoritative definition of the components of international law.

MEANING OF HUMAN RIGHTS

Human rights are the most basic rights that are essential for any human being. They are the fundamental rights or freedoms that every individual is entitled to, simply by being human. These rights are universal, inalienable and inherent to all people regardless of nationality, ethnicity, gender or any other status. Human rights are intended to protect individuals' dignity, freedom and equality. They also ensure that everyone can live a life free from oppression, discrimination and injustice.

¹ Malcolm N Shaw, *International Law* (9th edn, Cambridge University Press 2021)

According to Lord Hoffmann, Human rights are not a gift from the state to the people but exist to limit the power of the state over the people.² International Human Rights Law is a body of international law designed to promote and protect human rights at the international, regional and domestic levels, primarily through treaties, customary international law, general principles and judicial decisions.³

Treaties and Conventions are the legally binding agreements between states and international organisations. International human rights law consists of legally binding treaties and non-binding declarations, which are established to protect individuals from abuse and to ensure dignity, freedom and equality. They also work as a universal human rights standard. On the other hand, Certain human rights norms, such as the prohibition of slavery or torture, are widely accepted as customary international law and must be followed even without formal treaty ratification; it is nothing but an example of customary international law. Institutions like the United Nations Human Rights Council (UNHRC), International Criminal Court (ICC) and treaty-monitoring bodies ensure compliance and accountability of these international norms.

The Universal Declaration of Human Rights (UDHR) was adopted on 10 December 1948 by the United Nations General Assembly at its third session, held in Paris, France. In the Adoption of the UDHR, General Assembly speech, Eleanor Roosevelt, who was the chairperson of the UDHR Drafting Committee, rightly said that the Universal Declaration of Human Rights may well become the international Magna Carta of all men everywhere.⁴ UDHR serves as the foundational international standard for the protection of human rights around the world. It has had a great impact on the development of international human rights law worldwide. It has inspired various legally binding treaties and national constitutions. By providing a moral or ethical framework for governments and international organisations, it ensures the protection of human dignity and fundamental freedoms. The International Covenant on Civil and Political Rights (ICCPR), adopted in 1966, has been in

² *R (Alconbury Developments Ltd) v Secretary of State for the Environment, Transport and the Regions* [2001] UKHL 23

³ 'International Human Rights Law' (Office of the United Nations High Commissioner for Human Rights) <<https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law>> accessed 20 July 2025

⁴ Eleanor Roosevelt, 'Adoption of the Declaration of Human Rights - Dec. 9, 1948' (Archives of Women's Political Communication, 09 December 1948) <<https://awpc.cattcenter.iastate.edu/2017/03/21/adoption-of-the-declaration-of-human-rights-dec-9-1948/>> accessed 20 July 2025

force since 1976, and it is a core international human rights treaty. Its primary purpose is to protect the civil and political rights of individuals and to ensure accountability of states. It protects rights such as free speech, fair trial, dignity of individuals and political participation. The ICCPR is enforced by the Human Rights Committee, which is an independent body of experts that monitors state compliance with the treaty. States that are party to the ICCPR must submit their regular reports to the Committee on how they are fulfilling the rights outlined in the covenant.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a human rights treaty adopted by the United Nations General Assembly on 16 December 1966 and entered into force on 3 January 1976. It complements the ICCPR and is part of the International Bill of Human Rights, alongside the UDHR and ICCPR. It covers rights related to education, health and labour. The ICESCR reflects the commitment of the international community to social justice and equality, emphasising that economic, social and cultural rights are just as important as civil and political rights in ensuring the dignity and well-being of any individual. States that have ratified the ICESCR are obliged to take steps to progressively protect these rights. The Committee of ICESCR monitors compliance with the covenant and reviews periodic reports submitted by the States parties.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is a landmark international human rights treaty adopted by the United Nations General Assembly on 18 December 1979 and entered into force on 3 September 1981 for the purpose of eliminating all types of discrimination against women. It is often described as the international bill of rights for women. CEDAW is one of the most widely ratified international human rights treaties, with over 180 countries being parties to it⁵. By ratifying CEDAW, states agree to take steps to eliminate discrimination against women and to report on their progress periodically. In the landmark case of *Vishaka v State of Rajasthan*, the Supreme Court of India addressed the issue of sexual harassment of women at the workplace after the brutal gang rape of Bhanwari Devi, a social worker in Rajasthan.

It was observed that any international convention not inconsistent with the fundamental rights and in harmony with its spirit must be read into those rights to enlarge the meaning

⁵ Convention on the Elimination of All Forms of Discrimination against Women 1981

and content thereof.⁶ This case has resulted in the formulation of the Vishaka Guidelines and ultimately the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The Vishaka judgment is a landmark example of how international treaties like CEDAW can be used by courts to fill legislative gaps and enforce human rights protections at the domestic level.

The Convention on the Rights of the Child (CRC) is a comprehensive international treaty that sets out the civil, political, economic, social and cultural rights of children. It was adopted by the UN General Assembly on 20 November 1989 and came into force on 2 September 1990. It is the most widely ratified human rights treaty in the world. It provides for the international legal standards to ensure that all children, regardless of nationality, gender or any other background, have the right to survive, to grow, to develop and to participate fully in society with dignity.

The Convention Against Torture (CAT) is another international human rights treaty adopted by the United Nations General Assembly on 10 December 1984, to prevent torture and ill-treatment around the world.⁷ It aims to prevent torture and other cruel, inhuman or degrading treatment or punishment worldwide. Also, there are many other regional and specialised treaties which complement these international legal norms.⁸

MECHANISM FOR INCORPORATING INTERNATIONAL HUMAN RIGHTS LAW INTO NATIONAL LEGISLATION

Generally, the state follows a dualist approach while dealing with international laws. This means that international treaties do not automatically become enforceable domestically unless they are incorporated through legislation or proper due process⁹. Constitutional Adoption and Amendments can be used to incorporate these international human rights laws into domestic legislation. Many countries have explicitly integrated international human rights law into their constitutions. India has incorporated international human rights law into its constitution through fundamental rights and directive principles of state policy.

⁶ *Vishaka and Ors v State of Rajasthan* AIR 1997 SC 3011

⁷ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1987

⁸ Convention for the Protection of Human Rights and Fundamental Freedoms 1953; American Convention on Human Rights 1978; African Charter on Human and Peoples' Rights 1986; Convention on the Rights of the Child 1990)

⁹ Shaw (n 1)

In *People's Union for Civil Liberties v Union of India*, the Court had referred to the ICCPR to interpret Article 21, i.e., right to life and declared that telephone tapping without legal procedure violates the right to privacy, which reflects nothing but the global human rights standards.¹⁰ Ratification is the formal process by which a state consents to be legally bound by the terms of a treaty it has signed. Signing a treaty expresses preliminary approval; on the other hand, ratification confirms a state's commitment to follow it under international law.

It comes after signing the treaty and usually requires approval from Parliament or the executive, whichever the case may be, depending on the country's constitutional structure.¹¹ After ratification, it creates binding obligations at the international level. In India, ratification is an act of parliament. Article 253 of the Indian Constitution gives Parliament the power to make such laws. It says that Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.¹²

After the ratification stage of implementation comes. Implementation refers to the process of giving effect to a treaty's provisions within domestic law. In dualist systems like India, international treaties must be implemented through legislation to be enforceable in courts.¹³ It requires legislative action, i.e. passing a law which makes treaty obligations binding within the national legal system.

Judicial interpretation refers to the process by which courts interpret and apply the law. In the context of human rights law, the judiciary often tries to explain or give a broad meaning to the scope and meaning of fundamental rights. These interpretations result in the implementation of international norms in domestic laws. There are lots of examples in which courts have implied international human rights norms to national cases, even if treaties are not directly incorporated into domestic law. Also, many times courts have used international human rights law to interpret national legislation.

¹⁰ *People's Union for Civil Liberties v Union of India* AIR 1997 SC 568

¹¹ Vienna Convention on the Law of Treaties 1980, arts 11–14; Anthony Aust, *Modern Treaty Law and Practice* (3rd edn, CUP 2013); Malcolm N Shaw, *International Law* (9th edn, CUP 2021)

¹² Constitution of India 1950, art 253

¹³ James R Crawford, *Brownlie's Principles of Public International Law* (8th edn, OUP 2013)

Like the judiciary, the executive branch also plays a central role in adopting and implementing international human rights law through treaty ratification, administrative action and policy formulation. These executive and policy measures are vital in translating international obligations into actionable steps, even before or without formal legislation. Under Article 73 of the Indian Constitution, the executive has the power to enter into international treaties and agreements.

Customary international law is a set of rules derived from the general and consistent practice of states, which are followed out of a sense of legal obligation. It is binding on all states regardless of any treaty ratification unless a state has persistently objected. In *Gramophone Company of India Ltd v Birendra Bahadur Pandey*, the Supreme Court held that the comity of nations requires that rules of international law may be accommodated in the municipal law even without express legislative sanction, provided they do not run into conflict with Acts of Parliament.¹⁴ Prohibition of torture, right to life, freedom from slavery and sovereign equality of states are all part of customary international law and are generally respected worldwide.

IMPACT OF INTERNATIONAL HUMAN RIGHTS LAW ON INDIAN LEGISLATION

India, as a signatory to various international treaties such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), has incorporated several global human rights standards into its domestic laws. Gender equality refers to the equal rights, responsibilities and opportunities of women and men and girls and boys. It does not mean that women and men will become the same, but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female.

International treaties like CEDAW have led to stronger laws against discrimination, domestic violence and workplace harassment. India's Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, has significantly strengthened legal protections for women in line with CEDAW. The Convention on the Rights of the Child has influenced child labour laws, juvenile justice and education policies worldwide. India's Right

¹⁴ *Gramophone Company of India Ltd v Birendra Bahadur Pandey & Ors* AIR 1984 667

to Education Act, 2009, does ensure free and compulsory education for children, aligning with the Convention on the Rights of the Child. The Convention Against Torture has prompted nations to criminalise torture and prevent custodial violence. The 1951 Refugee Convention has influenced asylum policies and refugee protections worldwide. While India is not a signatory to the 1951 Refugee Convention, it grants asylum to refugees from Tibet, Sri Lanka and Afghanistan, etc. states. The Indian Constitution reflects the principles of international human rights such as equality, freedom and protection from exploitation. Additionally, the Human Rights Act, 1993, which established the National Human Rights Commission (NHRC), has progressive judicial interpretations which have reinforced India's commitment to international human rights norms.

GAPS BETWEEN LEGAL RECOGNITION AND PRACTICAL ENFORCEMENT OF HUMAN RIGHTS

While most nations have incorporated human rights norms into their constitutional or statutory frameworks, legal recognition alone is not sufficient. Many countries, including India, have enacted laws aligned with international obligations, but implementation remains uneven, especially in rural, marginalised or conflict-prone areas. Several structural obstacles hinder the practical enforcement of rights. This includes a lack of awareness among citizens about their rights, institutional weaknesses, delays in judicial processes, under-resourced human rights commissions and a lack of political will. Corruption and impunity are other problems. Also, there are cultural and societal resistance, particularly in enforcing rights related to gender, caste, religion or sexual orientations.

IMPORTANCE OF INTERNATIONAL COOPERATION AND INSTITUTIONAL ACCOUNTABILITY

Human rights are inherently universal and indivisible; their protection requires global solidarity. International cooperation facilitates the exchange of best practices. It provides technical and financial assistance to countries with weaker infrastructure. Also, it encourages states to adopt harmonised standards through peer pressure and reputation management. UN treaty bodies and Universal Periodic Reviews (UPR) help assess a country's progress and offer constructive recommendations.

Domestic institutions such as the judiciary, the legislature, commissions, etc., are the real enforcers of international human rights obligations. Therefore, transparent procedures, regular audits and accessible complaint mechanisms are essential. Independent oversight bodies like the NHRC, State commissions, and Vigilance Commissions must be empowered and autonomous. Courts must enforce constitutional and international norms through rights-based interpretation and judicial activism.

CHALLENGES IN IMPLEMENTING INTERNATIONAL HUMAN RIGHTS LAW

Some states resist external influence by arguing that human rights treaties infringe on national sovereignty. China and Russia often cite sovereignty to reject international human rights interventions. The U.S. refusal to ratify the ICC Statute reflects concerns over state autonomy. Certain human rights norms conflict with local traditions. LGBTQ rights face resistance in countries with conservative religious laws. Women's rights remain restricted in some Middle Eastern states due to Sharia and other local norms.

Also, it is very common to see restricted practices for women worldwide. Many countries lack the legal infrastructure to enforce international human rights laws. Corrupt legal systems fail to prosecute human rights violators despite treaty obligations. War-torn states struggle to uphold human rights due to instability. Despite ratifying treaties, some nations fail to enforce them. Saudi Arabia and China have signed human rights treaties, but continue their restrictions on free speech; Myanmar ignored international laws in the Rohingya crisis, etc., are examples.

CONCLUSION

International human rights law plays a crucial role in shaping national legislation, promoting fundamental freedoms and ensuring justice. While many countries have successfully integrated international norms into their legal systems, challenges remain high in enforcement and compliance. Political, cultural and institutional barriers often hinder the effective realisation of these rights, making human rights protection an ongoing challenge. Strengthening institutional mechanisms, fostering judicial independence and ensuring political commitment are essential to overcoming these obstacles. Moreover, international cooperation and accountability remain critical in supporting states to meet their obligations. Ultimately, the success of international human rights law depends not only on its codification

within domestic systems but also on the genuine will of states to translate universal principles into lived realities for all individuals.