

# Incorporation of International Human Rights Treaties into Domestic Constitutional Law

**Dr. Sonali Anand Burte and Neha Sujay Gangal**

Ashokdada Sable Law College, Mangaon

**Abstract:** *The incorporation of international human rights treaties into domestic constitutional law is a complex and evolving process with significant implications for national sovereignty, legal frameworks, and the protection of human rights. This study explores public perceptions regarding this incorporation, focusing on awareness, support, perceived benefits, and challenges. The findings reveal that while there is broad awareness and support for aligning domestic law with international human rights standards, concerns about national sovereignty, implementation challenges, and cultural misalignment remain prevalent. Trust in both domestic and international legal systems is evident, though slightly more inclined towards domestic frameworks. The study underscores the need for careful balancing of international obligations with national contexts, emphasizing the importance of transparent, inclusive processes and ongoing public engagement to ensure successful integration of human rights treaties into domestic law. The results offer valuable insights for policymakers and legal practitioners as they navigate the complexities of global human rights governance..*

**Keywords:** human rights governance

## I. INTRODUCTION

The incorporation of international human rights treaties into domestic constitutional law is a complex and evolving area of legal scholarship and practice. As globalization deepens and states become increasingly interconnected, the protection and promotion of human rights have taken on greater international significance. International human rights treaties, such as the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), are pivotal in establishing global standards for the protection of fundamental rights. However, the effectiveness of these treaties largely depends on their incorporation into and enforcement within domestic legal systems.

Incorporating international human rights treaties into domestic constitutional law is not merely a legal formality; it involves significant legal, political, and social implications. The process varies considerably across different jurisdictions, reflecting diverse legal traditions, constitutional frameworks, and political contexts. In some countries, international treaties are automatically incorporated into domestic law upon ratification, enjoying the same status as constitutional provisions or even taking precedence over conflicting national laws. In others, treaties require specific legislative action to be domestically enforceable, or they may be treated as persuasive rather than binding.

The relationship between international human rights law and domestic constitutional law raises critical questions about sovereignty, the role of the judiciary, and the balance between international obligations and national interests. Courts play a crucial role in this process, interpreting and applying international treaties within the domestic legal framework, often navigating complex interactions between international norms and local legal principles. Additionally, the incorporation of international human rights treaties can be a powerful tool for civil society and human rights advocates, providing a legal basis for challenging domestic laws and practices that violate internationally recognized human rights standards.

This research paper examines the mechanisms and challenges associated with the incorporation of international human rights treaties into domestic constitutional law. It explores various approaches adopted by different countries, the role of the judiciary in enforcing international human rights norms, and the implications of these practices for the protection

of human rights at the national level. By analyzing key case studies and legal doctrines, the paper aims to provide a comprehensive understanding of how international human rights law is integrated into domestic legal systems and its impact on the realization of human rights within different national contexts. Ultimately, this study seeks to contribute to the broader discourse on the intersection of international law and domestic constitutional governance, offering insights into how states can better align their national laws with their international human rights obligations.

## **II. REVIEW OF LITERATURE**

Alston and Goodman (2013) explore the evolution of international human rights law, emphasizing how domestic legal systems integrate these international norms. They discuss the challenges and successes in the incorporation of international human rights treaties into domestic law.

Aust (2010) provides an overview of modern treaty law and practice, detailing how treaties are incorporated into domestic legal systems. He analyzes the role of domestic courts and legislatures in implementing international treaty obligations.

Buergethal, Shelton, and Stewart (2009) offer a concise overview of international human rights law, including how these rights are recognized and enforced in domestic legal systems. The book discusses the practical aspects of treaty implementation and the role of national courts in upholding international human rights standards.

Cassese (2005) provides a comprehensive analysis of international law, including the mechanisms for incorporating international treaties into domestic law. He discusses the role of national constitutions in facilitating or hindering the enforcement of international human rights norms.

De Wet (2006) examines the concept of the international constitutional order, focusing on the interplay between international law and domestic constitutional law. She analyzes how international human rights treaties influence domestic constitutional frameworks.

Henkin (1995) argues that international law is increasingly being recognized as binding law within domestic legal systems, particularly in the United States. He discusses the mechanisms through which international human rights treaties are incorporated into U.S. constitutional law.

Higgins (1994) explores the process of integrating international law into domestic legal systems, emphasizing the practical challenges faced by states. She provides case studies of how different countries have incorporated international human rights treaties into their domestic law.

Koh (1997) examines the reasons why nations comply with international law, including the incorporation of international treaties into domestic legal frameworks. He discusses the role of domestic courts in ensuring compliance with international human rights obligations.

McGoldrick (1997) focuses on the impact of the International Covenant on Civil and Political Rights (ICCPR) on domestic legal systems. He analyzes how different countries have incorporated the ICCPR into their national laws and the challenges they face in doing so.

Shelton (2000) discusses the remedies available for violations of international human rights law, particularly in domestic courts. She analyzes the role of national courts in providing effective remedies for breaches of international human rights treaties.

Sloss (2009) provides a comparative study of how domestic courts enforce international treaties. He examines the different approaches taken by various countries in incorporating international human rights treaties into their domestic legal systems.

Steiner, Alston, and Goodman (2008) offer an in-depth analysis of international human rights law and its interaction with domestic legal systems. They discuss the role of national courts and constitutions in implementing international human rights treaties.

Tushnet (2009) argues that constitutional law is becoming increasingly globalized, with international human rights treaties playing a significant role in shaping domestic constitutional law. He explores the implications of this trend for national sovereignty and the protection of human rights.

Van Alstine (2004) examines the role of domestic courts in the enforcement of international treaties, focusing on the challenges and opportunities for integrating international human rights norms into domestic legal systems. He provides a comparative analysis of different national approaches.

Walker (2008) explores the interaction between international human rights law and domestic constitutional law, analyzing the different models of incorporation used by states. He discusses the implications of these models for the protection of human rights at the national level.

III. ANALYSIS

Demographic Characteristics

Table 1: Demographic Characteristics of Respondents

Variable	Category	Frequency	Percentage (%)
Gender	Male	80	53.3
	Female	70	46.7
Age Group	18-24 years	20	13.3
	25-34 years	50	33.3
	35-44 years	40	26.7
	45-54 years	30	20.0
	55+ years	10	6.7
Education Level	High School	20	13.3
	Bachelor's	70	46.7
	Master's	50	33.3
	Doctorate	10	6.7
Occupation	Student	20	13.3
	Professional	90	60.0
	Government Employee	20	13.3
	Other	20	13.3

Interpretation:

The gender distribution is nearly balanced with slightly more male respondents. The majority of respondents are in the 25-34 years age group, indicating a young adult population. A significant portion of the respondents holds at least a Bachelor's degree, indicating a well-educated sample. Most respondents are professionals, which could influence their perspectives on legal and human rights issues.

Awareness of International Human Rights Treaties

Table 2: Awareness Levels of International Human Rights Treaties

Awareness Level	Frequency	Percentage (%)
Not Aware	15	10.0
Slightly Aware	25	16.7
Moderately Aware	60	40.0
Very Aware	40	26.7
Extremely Aware	10	6.7

**Interpretation:**

A majority of respondents are at least moderately aware of international human rights treaties, suggesting that the sample is relatively informed about the subject.

Only a small percentage of respondents are not aware of these treaties.

**Opinion on Incorporation of Treaties into Domestic Law**

Table 3: Opinion on Incorporation of Treaties into Domestic Law

Opinion on Incorporation	Frequency	Percentage (%)
Strongly Oppose	10	6.7
Oppose	20	13.3
Neutral	30	20.0
Support	60	40.0
Strongly Support	30	20.0

**Interpretation:**

Most respondents (60%) support or strongly support the incorporation of international human rights treaties into domestic law, indicating general favorability toward aligning domestic law with international standards.

A smaller portion of respondents opposes or strongly opposes this incorporation, showing that there is some resistance or concern.

**Perceived Benefits of Incorporation**

Table 4: Perceived Benefits of Incorporation

Perceived Benefits	Frequency	Percentage (%)
Enhances Human Rights	80	53.3
Promotes Global Standards	50	33.3
Improves Legal Framework	20	13.3

**Interpretation:**

The majority of respondents believe that incorporating international treaties enhances human rights protection within the country.

Promoting global standards is also seen as a significant benefit, while fewer respondents view the improvement of the legal framework as the primary benefit.

**Perceived Challenges of Incorporation**

Table 5: Perceived Challenges of Incorporation

Perceived Challenges	Frequency	Percentage (%)
Threat to National Sovereignty	70	46.7
Implementation Issues	40	26.7
Cultural Misalignment	30	20.0
No Significant Challenges	10	6.7

**Interpretation:**

The most significant challenge perceived by respondents is the potential threat to national sovereignty, followed by issues related to implementation.

Cultural misalignment is also seen as a challenge, though less prominently.

**Trust in Legal Systems**

Table 6: Trust in International vs. Domestic Legal Systems

Trust Level	Frequency	Percentage (%)
Trust International More	50	33.3
Trust Domestic More	70	46.7
Trust Both Equally	30	20.0

**Interpretation:**

Respondents tend to trust domestic legal systems more than international ones, though a significant portion also trusts international systems.

Some respondents trust both systems equally, indicating a balance in perceptions.

**Summary of Findings**

**Demographics:** The respondents are primarily young professionals with a high level of education.

**Awareness:** Most respondents are aware of international human rights treaties, with a significant portion being moderately or very aware.

**Opinion on Incorporation:** There is general support for incorporating these treaties into domestic law, although some concerns remain.

**Perceived Benefits:** Enhancing human rights protection is seen as the primary benefit of incorporation.

**Perceived Challenges:** National sovereignty is the most significant concern, with implementation and cultural misalignment also being notable challenges.

**Trust:** Respondents generally have more trust in domestic legal systems, though international systems are also trusted by a substantial minority.

This descriptive analysis provides a comprehensive overview of the data collected, highlighting the key issues and perspectives related to the incorporation of international human rights treaties into domestic constitutional law.

**IV. RESULTS**

**1. Demographic Characteristics**

The sample consists of a balanced gender distribution, with 53.3% male and 46.7% female respondents. The majority of respondents fall within the 25-34 years age group (33.3%), indicating that the sample is relatively young. Educationally, 46.7% of the respondents have a Bachelor's degree, and 33.3% have a Master's degree, suggesting that the sample is well-educated. The majority of respondents are professionals (60.0%), with a smaller representation of students, government employees, and other occupations.

**2. Awareness of International Human Rights Treaties**

The results show that a significant portion of respondents are aware of international human rights treaties, with 33.3% being moderately aware and 26.7% being very aware. Only 10.0% of respondents reported being not aware of these treaties. This indicates a relatively informed population regarding international human rights frameworks.

**3. Opinion on Incorporation of Treaties into Domestic Law**

The majority of respondents (60.0%) support or strongly support the incorporation of international human rights treaties into domestic law. This suggests a favorable view toward aligning domestic legal frameworks with international standards. However, 20.0% of respondents remain neutral, and a smaller group (20.0%) opposes or strongly opposes such incorporation, reflecting some degree of skepticism or concern.

**4. Perceived Benefits of Incorporation**

Respondents perceive several benefits to incorporating international human rights treaties into domestic law. The most commonly cited benefit is the enhancement of human rights protection (53.3%), followed by the promotion of global standards (33.3%). Improving the legal framework is seen as a benefit by 13.3% of respondents. These results highlight the perceived value of international treaties in strengthening domestic human rights protections.

#### 5. Perceived Challenges of Incorporation

The primary challenge identified by respondents is the potential threat to national sovereignty, with 46.7% of respondents expressing this concern. Implementation issues are also significant, with 26.7% citing this as a challenge. Cultural misalignment is a concern for 20.0% of respondents. Only 6.7% of respondents believe there are no significant challenges to incorporating international treaties into domestic law. These findings indicate that while there is support for incorporation, there are also substantial concerns that need to be addressed.

#### 6. Trust in Legal Systems

The results reveal that respondents generally trust domestic legal systems more than international ones, with 46.7% expressing more trust in domestic systems. However, 33.3% of respondents trust international legal systems more, and 20.0% trust both systems equally. This indicates a nuanced perspective on the reliability and effectiveness of different legal systems in protecting human rights.

#### Summary of Results

**Demographics:** The sample is young, well-educated, and primarily composed of professionals, providing a solid base for understanding public opinion on legal matters.

**Awareness:** There is a high level of awareness about international human rights treaties among respondents, suggesting that the population is well-informed about international legal frameworks.

**Opinion on Incorporation:** A majority of respondents favor the incorporation of international treaties into domestic law, though a significant minority expresses neutrality or opposition.

**Perceived Benefits:** The enhancement of human rights protection is seen as the main benefit of incorporation, with the promotion of global standards also being highly valued.

**Perceived Challenges:** National sovereignty is the most significant concern, followed by implementation issues and cultural misalignment. These challenges highlight areas where careful consideration and strategic planning are necessary.

**Trust:** While trust in domestic legal systems is generally higher, there is also considerable trust in international systems, suggesting that both play important roles in human rights protection.

These results provide a comprehensive understanding of public perceptions regarding the incorporation of international human rights treaties into domestic constitutional law, highlighting both the potential benefits and the challenges that need to be addressed.

## V. CONCLUSION

### 1. High Awareness and Support for Incorporation:

The results indicate that there is a significant level of awareness among the respondents about international human rights treaties. This awareness translates into a majority supporting the incorporation of these treaties into domestic law, reflecting a general recognition of the importance of aligning national legal frameworks with global human rights standards. The perceived benefits, particularly the enhancement of human rights protection and the promotion of global standards, underscore the public's belief in the value of international treaties in strengthening domestic human rights protections.

### 2. Challenges and Concerns:

Despite the strong support for incorporation, there are notable challenges and concerns that cannot be overlooked. The primary challenge identified is the potential threat to national sovereignty, a concern that resonates with nearly half of the respondents. Additionally, implementation issues and cultural misalignment present significant obstacles that need to be carefully managed. These concerns highlight the need for a balanced approach that respects national sovereignty while ensuring that international human rights obligations are effectively integrated and upheld.

### 3. Trust in Legal Systems:

The findings also reveal a nuanced perspective on trust in legal systems. While respondents generally exhibit more trust in domestic legal systems, there is also considerable trust in international systems. This dual trust suggests that

respondents see value in both domestic and international legal frameworks and recognize the complementary roles they play in protecting human rights.

#### **4. Policy Implications:**

The results of this study suggest that while there is broad public support for incorporating international human rights treaties into domestic law, policymakers must address the significant concerns related to national sovereignty, implementation challenges, and cultural differences. Effective communication, transparent processes, and inclusive dialogue will be essential in addressing these concerns and building public confidence in the incorporation process. Additionally, fostering trust in both domestic and international legal systems will be crucial in ensuring the successful integration of international human rights standards into national constitutions.

#### **5. Future Considerations:**

As countries continue to navigate the complexities of globalization and international law, the incorporation of international human rights treaties into domestic constitutional law will remain a critical area of focus. This study highlights the importance of ongoing public engagement and education to ensure that the public is informed and supportive of such legal developments. Moreover, the findings emphasize the need for continued research and dialogue on how to best balance international obligations with domestic legal and cultural contexts.

In conclusion, the incorporation of international human rights treaties into domestic constitutional law presents both opportunities and challenges. By addressing the concerns raised in this study and fostering trust in the legal process, countries can strengthen their commitment to human rights and ensure that their legal frameworks reflect the highest standards of justice and equality.

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