The Effectiveness of International Instruments in Dealing with Human Rights Violation in India

RAJLAKSHMI Amity University, Noida

Abstract- In India as well as throughout the world, human rights have become essential to justice and dignity. With the 1948 adoption of the Universal Declaration of Human Rights (UDHR), which established the framework for later legally binding agreements like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the recognition of inherent human rights gained momentum on a global scale following World War II. As a signatory to these agreements, India has integrated numerous of their tenets into its legislative and constitutional structure. The spirit of these international commitments is reflected in the Indian Constitution through its Directive Principles and Fundamental Rights. But even with this alignment, there are still obstacles to overcome to effectively address human rights violations, especially when it comes to socioeconomic rights, gender equality, and custodial violence. determine the advantages and disadvantages of India's strategy for preserving universal human rights standards, this study looks at the impact and application of international human rights instruments in India, assessing their practical efficacy and providing a comparative viewpoint with other jurisdictions.

I. INTRODUCTION

The fundamental privileges that each person has just by virtue of being human are known as human rights. They guarantee that a person can live in freedom, equality, and dignity without worrying about prejudice or repression. Although the concept of human rights has persisted in some form throughout human civilization, it is only recently that it has been acknowledged as a matter of international law. The world community realized how urgently a system that upholds the intrinsic dignity of every human being

regardless of nationality, race, gender, or religion was needed after seeing the atrocities and devastation of World War II. As a result of this insight, the United Nations was established in 1945, with the promotion and defence of human rights for all as one of its primary goals.¹

The United Nations General Assembly's 1948 ratification of the Universal Declaration of Human Rights (UDHR) marked the beginning of the true worldwide acceptance of human rights. For the first time, the UDHR established that all people are born free, equal in dignity, and with the same set of rights. Despite not being legally binding, it served as the cornerstone for later international human rights legislation and still has an impact on national laws, constitutions, and court rulings worldwide.2 Two significant treaties, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), were ratified in 1966 in order to give these rights legal force. These treaties together with the UDHR make up the so-called International Bill of Human Rights.³ Later, a number of specialized treaties that addressed particular problems faced by vulnerable groups were created, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979 and the Convention on the Rights of the Child (CRC) in 1989.4

The development of these international mechanisms has been greatly influenced and supported by India, a founding member of the UN. The fundamental values of human rights equality, justice, and individual dignity were already at the heart of India's own independence movement. Later, these principles were incorporated into the 1950 Indian Constitution. The spirit of the UDHR and the ICCPR is explicitly reflected in the Fundamental Rights protected by Part III of the Constitution, including the rights to equality, freedom of speech, and the protection of life and

personal liberty.⁵ Many of the social and economic rights outlined in the ICESCR, including as the right to employment, education, and a sufficient standard of living, are also reflected in the Directive Principles of State Policy in Part IV.⁶

Major international human rights treaties such as the ICCPR, ICESCR, and CEDAW have been ratified by India, which has also taken several institutional and legal steps to fulfil its commitments under these agreements. The National Human Rights Commission (NHRC) and State Human Rights Commissions were established because of the Protection of Human Rights Act, 1993, which was passed in order to advance and defend human rights in conformity with international norms.⁷ These organizations are charged with looking into infractions, suggesting changes, and spreading the word about how crucial it is to uphold human dignity. Incorporating international human rights principles into Indian domestic law has also been made possible in large part by Indian courts. In Vishaka v. State of Rajasthan, the Supreme Court used CEDAW to establish rules regarding sexual harassment in the workplace, concluding that even in the absence of domestic laws, international agreements that do not conflict with fundamental rights may be incorporated into Indian law.8

The actual achievement of human rights in India still faces several obstacles, despite this robust institutional and legal structure. The ongoing discrepancy between law and reality is demonstrated by cases of caste-based discrimination, gender-based violence, extrajudicial executions, torture in detention, and repression of dissent.9 Even while the NHRC has been crucial in looking into these kinds of situations, it is frequently criticized for its bureaucratic limitations, lack of enforcement authority, and restricted powers. Furthermore. international oversight and accountability are limited by India's reluctance to ratify some optional protocols to international treaties that would enable people to directly bring complaints before UN human rights agencies.¹⁰

Therefore, it is possible to see the impact of international human rights instruments in India in both positive and difficult ways. On the one hand, they have stimulated awareness of human rights principles, legislative reform, and constitutional interpretation.

However, its successful implementation is frequently hampered by political resistance, administrative inefficiencies, and socioeconomic inequalities. Furthermore, India's legal system has a dualist stance, which holds that international law does not become enforceable unless it is incorporated into domestic law, even while it acknowledges the persuasive power of international treaties. This creates a disconnect between India's international commitments and their practical enforcement within the country.¹¹

India's approach to the application of human rights shows both strengths and faults when compared to other democratic countries. Through the Human Rights Act 1998, for example, the United Kingdom has directly incorporated international human rights law into local legislation, enabling people to contest abuses in national courts.12 Strong institutional safeguards and established legal precedents in the US offer efficient redress for human rights abuses. India, on the other hand, mostly depends on constitutional interpretation and judicial activism to bring its internal procedures into compliance with international standards. This has undoubtedly advanced human rights protection in several areas but also highlights the need for stronger legislative and administrative action.

Thus, it is pertinent and significant to investigate the ways in which international human rights instruments impact India's domestic human rights framework. It gives insight into how international legal norms interact with domestic institutions, how well these tools are applied, and how India compares to other nations. This study looks at how international agreements like the UDHR, ICCPR, ICESCR, and CEDAW affect India's human rights system, assess how well they work to address human rights abuses, and pinpoint the obstacles that still stand in the way of their full implementation. Its goal is to determine if India's citizens have received the real safeguards promised by international human rights law and what changes could be required to improve this relationship.

II. INTERNATIONAL HUMAN RIGHTS INSTRUMENTS: AN OVERVIEW

From early claims of justice and liberty to a worldwide framework of legally binding commitments, the evolution of international human rights instruments is a lengthy process. With centuries of intellectual debate, political upheaval, and legal reform, the notion that people have some unalienable rights has a long history. Human rights have evolved from early charters like Magna Carta to the intricate web of international agreements and organizations that exist today, reflecting humanity's expanding commitment to preserving equality, freedom, and dignity for all.

III. HISTORICAL EVOLUTION OF HUMAN RIGHTS

Centuries of fighting for justice and liberty have led to the creation of international human rights law. Its origins can be seen in early treaties such as the Magna Carta (1215), which secured certain fundamental rights including a fair trial and protection from arbitrary arrest while also restricting the monarchy's power.¹³ Subsequent landmarks such as the American Declaration of Independence (1776), the French Declaration of the Rights of Man and of the Citizen (1789), and the English Bill of Rights (1689) highlighted equality, liberty, and the rule of law as the cornerstones of lawful government.¹⁴

The world community realized that defending human rights needed to become an international duty following the tragedy of World War II. This new age began in 1945 with the founding of the United Nations (UN), whose Charter expressly committed its member nations to upholding and advancing human rights. ¹⁵

IV. THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)

The 1948 adoption of the Universal Declaration of Human Rights (UDHR) served as the cornerstone of contemporary human rights legislation. In addition to acknowledging liberties like the right to life, liberty, expression, and education, it declares that all people are created equal in dignity and rights. ¹⁶ Despite not having legal force behind it, it has been incorporated into customary international law and continues to

influence international treaties and state constitutions.¹⁷

V. THE ICCPR AND ICESCR

In 1966, two binding covenants were adopted to give legal force to the UDHR, The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Cicil and Political Rights (ICCPR). The ICCPR safeguards fundamental freedoms like the right to life, free trial and freedom of religion and expression, while the ICESCR ensures socio-economic rights such as the right to work, health and education.¹⁸

The Human Rights Committee oversees the ICCPR's implementation, and the committee on Economic, Social and Cultural Rights (CESCR) monitors the ICESCR. States must submit periodic reports on their progress, and the committees issue general comments and recommendations.¹⁹

VI. THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

CEDAW, which was adopted in 1979, aims to end discrimination against women in all spheres of life, including work, education, and political involvement.²⁰ States are required to implement laws and policies that promote gender equality. Under its Optional Protocol, the CEDAW Committee examines state compliance and takes individual complaints into consideration.²¹

VII. THE UNITED NATIONS HUMAN RIGHTS COUNCIL (UNHRC)

The United Nations Human Rights Council (UNHRC), which was founded in 2006, is the primary UN body responsible for advancing and defending human rights around the world.²² Every member state's human rights record is reviewed by its Universal Periodic Review (UPR), and Special Rapporteurs look into problems like discrimination or torture.²³ The Council is essential to upholding international accountability, notwithstanding accusations of political bias.

VIII. COMPLIANCE UNDER INTERNATIONAL LAW

Instead of actual enforcement, international human rights treaties primarily rely on diplomatic and moral pressure. States are required to carry out their obligations under the 1969 Vienna Convention on the Law of Treaties in good faith. Treaty organizations promote compliance by encouraging governments to harmonize their domestic laws with international norms through reporting, evaluation, and recommendations. Despite their lack of coercive authority, these instruments have improved global collaboration and impacted domestic law reforms.

IX. EFFECTIVENESS OF INTERNATIONAL INSTRUMENTS IN ADRESSING HUMAN RIGHTS VIOLATION IN INDIA

India's approach to human rights protection has been significantly impacted by international human rights instruments. As a member of the United Nations and a signatory to major treaties such as the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), India has incorporated many of their principles into its Constitution, laws, and judicial interpretations. These tools have influenced legislative changes as well as the judiciary's efforts to protect people's rights and dignity.

X. ROLE OF INTERNATIONAL INSTRUMENTS IN SHAPING NATIONAL LEGISLATIONS

The Indian Constitution reflects the spirit of international human rights conventions. The UDHR and ICCPR served as inspiration for the Fundamental Rights (Articles 12–35), which include the following guarantees: equality before the law, freedom of speech, protection of life and personal liberty, and prohibition of discrimination.²⁴ The ICESCR is also echoed by the Directive Principles of State Policy (Articles 36–51), which place a strong emphasis on the rights to social welfare, employment, and education.²⁵

In accordance with international commitments, several national laws have also been passed. The National Human Rights Commission (NHRC) was established because of the Protection of Human Rights Act, 1993, which was passed in order to implement the UN's Paris Principles. India's pledges under CEDAW had an impact on the Protection of Women from Domestic Violence Act, 2005, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The Convention on the Rights of the Child (CRC) is also in line with child protection regulations like the Juvenile Justice (Care and Protection of Children) Act, 2015. 28

XI. LANDMARK HUMAN RIHTS VIOLATION CASES AND THEIR IMPACT

International human rights standards have been enforced in large part by the Indian judiciary. The Supreme Court bridged the gap between domestic law and international duties in Vishaka v. State of Rajasthan by using CEDAW to establish standards against sexual harassment in the workplace.²⁹ The Court emphasized that the right to life under Article 21 must be read in accordance with international human rights principles when it established protections against torture in detention in D.K. Basu v. State of West Bengal.³⁰

In a similar vein, the Court affirmed the right to privacy and dignity as fundamental to human existence in People's Union for Civil Liberties v. Union of India, citing Article 12 of the UDHR and Article 17 of the ICCPR.³¹ These rulings demonstrate how Indian courts have expanded the definition of constitutional rights and ensured accountability for violations by following international standards.

XII. INTERNATIONAL INFLUENCE ON LEGAL REFORMS IN INDIA

India's domestic legal system has undergone numerous revisions because of international human rights law. In response to international pressure and pledges under CEDAW, the Criminal Law (Amendment) Act, 2013 was introduced to enhance rules against sexual violence following the Nirbhaya case in 2012, which garnered international attention.³² Like this, the Rights of Persons with Disabilities Act, 2016 was

passed in India as a result of the country's ratification of the UN Convention on the Rights of Persons with Disabilities (CRPD), guaranteeing equal opportunities and non-discrimination for people with disabilities.³³

These changes demonstrate that India's participation in international human rights mechanisms has improved national laws and policies in a noticeable way.

XIII. THE PAHALGAM ATTACK AND HUMAN RIGHTS CONCERNS

Serious human rights concerns were once again brought up by the recent terror assault in Pahalgam, Jammu and Kashmir, which tragically claimed the lives of innocent people. The fundamental rights to life and security protected by Article 3 of the UDHR and Article 21 of the Indian Constitution are violated by such situations.³⁴ Because it targets civilians and installs fear, terrorism directly undermines the fundamental principles of human rights.

However, to avoid abuse of power, counterterrorism measures must also adhere to human rights principles. The fundamental rights to life, dignity, and equitable treatment must not be suspended, even in the event of a national emergency, according to international documents such as the ICCPR.³⁵ Therefore, to honour international commitments and ensure justice for victims, India's response to such acts should find a balance between human rights protection and national security.

XIV. COMPARATIVE PERSPECTIVE

Human rights legislation shows how countries strike a balance between equality, liberty, and governmental power. Different methods of human rights protection have been moulded by historical experiences and constitutional systems, notwithstanding the fact that all democratic nations strive to uphold human dignity. Three different but significant strategies for defending human rights via legislation, governance, and judicial enforcement are offered by the US, UK, and SOUTH AFRICA.

XV. HUMAN RIGHTS LAW IN THE UNITED STATES

Based on its Constitution (1787) and the Bill of Rights (1791), the United States has one of the oldest and

most significant human rights protection systems.³⁶ Civil and political liberties like freedom of expression, freedom of religion, freedom of assembly, and freedom from arbitrary detention are guaranteed by the first ten amendments.³⁷ Slavery was later outlawed, equal protection was guaranteed, and voting rights were expanded by the Thirteenth, Fourteenth, and Fifteenth Amendments.³⁸

The cornerstone of contemporary human rights jurisprudence is the Fourteenth Amendment, which guarantees that no state may "deny to any person within its jurisdiction the equal protection of the laws." U.S. courts have given this clause a broad interpretation that addresses issues of reproductive rights, gender equality, and racial discrimination.

Landmark cases such as Brown v. Board of Education (1954) outlawed racial segregation in schools, ⁴⁰ while Roe v. Wade (1973) and Obergefell v. Hodges (2015) expanded privacy and marriage equality rights. ⁴¹ The U.S. Supreme Court plays a dominant role in defining and enforcing human rights, often relying on constitutional interpretation rather than international instruments.

The United States adopts a monist stance, with Article VI of the Constitution incorporating ratified treaties into domestic law.⁴² However, it has limited the domestic impact of international law by selectively ratifying important human rights treaties like the International Covenant on Civil and Political Rights (ICCPR) but not the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).⁴³

XVI. HUMAN RIGHTS LAW IN THE UNITED KINGDOM

Unlike the US, the UK does not have a single written constitution. Beginning with Magna Carta (1215), which first established the rule of law and curtailed royal power, its human rights framework developed throughout centuries of legal and political growth.⁴⁴ Later, parliamentary supremacy and some individual liberties were enshrined in the Bill of Rights (1689).⁴⁵

The Human Rights Act (HRA), 1998, which enshrined the European Convention on Human Rights (ECHR) in domestic law, governs contemporary human rights

protection in the UK.⁴⁶ Instead of going to the European Court of Human Rights in Strasbourg, people can now bring human rights issues before UK courts thanks to the HRA.

According to the HRA, UK courts are required to interpret all legislation in a way that is, to the greatest extent feasible, consistent with the rights outlined in the ECHR.⁴⁷ Courts have the authority to declare a statute incompatible if it cannot be construed consistently, leaving Parliament to determine whether to change it.⁴⁸ Human rights accountability and legislative sovereignty are balanced in this system.

The ECHR protects rights like freedom of expression, privacy, a fair trial, and life. The HRA is still a vital instrument for defending fundamental liberties within the British legal system, even in the face of continuous discussions over the UK's membership in the European human rights system.

XVII. HUMAN RIGHTS LAW IN SOUTH AFRICA

One of the world's most progressive and rights-based constitutional systems is that of South Africa. The Constitution of 1996 included a comprehensive Bill of Rights that ensures all citizens have civil, political, economic, and social rights in response to the injustice of apartheid.⁴⁹

In contrast to many previous constitutions, the South African Bill of Rights (Sections 26–27) expressly guarantees socioeconomic rights such access to food, water, housing, and healthcare.⁵⁰ The Constitution declares that these rights are "justiciable", meaning individuals can approach courts directly for enforcement.

The Bill of Rights is protected by the South African Constitutional Court. In Government of the Republic of South Africa v. Grootboom (2000), the Court acknowledged the connection between socioeconomic stability and dignity and ruled that the state must take reasonable steps to guarantee access to housing. In a similar vein, the Court upheld the right to healthcare in Minister of Health v. Treatment Action Campaign (2002) by ordering the government to provide anti-retroviral medications to stop the spread of HIV.

When interpreting constitutional rights, South Africa's courts frequently refer to international treaties including the ICCPR, ICESCR, and CEDAW, which the country also abides by. This illustrates how international human rights norms and home constitutional principles can coexist peacefully.

CONCLUSION

Humanity has long fought for equality, fairness, and dignity, as seen by the development of human rights from the Magna Carta to the contemporary international framework. A new era in acknowledging rights as universal and inalienable was ushered in by the creation of international instruments like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), the Universal Declaration of Human Rights (UDHR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Together, these tools provide the moral and legal framework that shields people from societal or governmental abuses of power.

These international frameworks have had a significant impact on India. When creating the Fundamental Rights and Directive Principles of State Policy, the Indian Constitution's founders took inspiration from Indian courts have expanded their the UDHR. interpretation of the constitution throughout time by relying on international human rights standards, particularly when it comes to cases regarding gender justice, environmental rights, and the right to life and dignity. India's dedication to harmonizing its domestic legislation with international human rights norms is further evidenced by laws like the Protection of Human Rights Act, 1993. However, despite these advancements, problems including internal tensions, discrimination, and violence in detention still make it difficult to effectively realize these rights.

While the language of rights is universal, national constitutional systems determine how it is implemented, according to a comparative study of human rights law in the US, UK, and SA. South Africa exemplifies transformative constitutionalism that incorporates socio-economic rights into its Bill of Rights; the United Kingdom uses the Human Rights Act, 1998, to strike a balance between parliamentary

sovereignty and international accountability; and the United States places a high priority on constitutional supremacy and judicial activism. With its combination of international standards and constitutional safeguards, India's system offers a middle ground that is flexible, interpretive, and changing over time.

In conclusion, through influencing Indian legislation, directing judicial reasoning, and spurring reform, international human rights instruments have profoundly shaped India's legal and moral landscape. The true test of these tools, though, will be how well they are accepted by society and enforced domestically. India must keep bolstering institutional systems, raising awareness, and aligning domestic practices with international obligations to guarantee that the promises of equality and dignity are not confined to legal documents. In the end, upholding human rights continues to be both a legal need and an ongoing moral imperative that characterizes a democratic and compassionate society.

SUB REFERENCES

- [1] U.N Charter Art. 1, ¶ 3.
- [2] G.A Res. 217 (III) A Universal Declaration of Human Rights (Dec 10, 1948).
- [3] International Covenant on Civil and Political Rights, Dec 16, 1966, 993 U.N.T.S. 171.
- [4] Convention on The Elimination of All forms of Discrimination Against Women, Dec. 18, 1979, 12249 U.N.T.S. 13.
- [5] The Constitution of India, Article, 12-35.
- [6] Directive Principles of State Policy, Part IV, Indian Constitution.
- [7] The Protection of Human Rights Act, No.10 of 1994, India Code (1994).
- [8] Vishakha v. State of Rajasthan, (1997) 6 S.C.C. 241 (India).
- [9] Human Rights Watch, World Report 2024: India (2024).
- [10] National Human Rights Commission of India, Annual Report 2022-23.
- [11] Jack Donnelly, Universal Human Rights in Theory and Practice 214-17 (3d ed. 2013)
- [12] Human Rights Act 1998, C.42 (UK)
- [13] Magna Carta, 1215, cl. 39 (Eng.).

- [14] Declaration of the Rights of Man and of the Citizen, 1789, Art. 1 (Fr.):
- [15] U.N Charter Art. 1 & 3.
- [16] G.A. Res 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948).
- [17] Hurst Hannum, The Status of the Universal Declaration of Human Rights in National and International Law, 25 Ga.J. Int'l & Comp. L. 287 (1995-96)
- [18] International Covenant on Civil and Political Rights, Dec. 16, 1996, 999 U.N.T.S. 171; International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1996, 993 U.N.T.S. 3.
- [19] U.N. Human Rights Commission, General Comment No. 3, U.N. Doc. E/1991/23 (Dec. 14, 1990)
- [20] Convention on The Elimination of All Forms of Discrimination Against Women, Oct 6, 1999, 2131 U.N.T.S. 83.
- [21] G.A. Res. 60/251, U.N. Doc A/RES/60/251 (Apr. 3, 2006)
- [22] U.N. Human Rights Council, Institution-Building of the United Nations Human Rights Council, Res. 5/1, U.N Doc. A/HRC/RES/5/1 (June 18,2007)
- [23] Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331
- [24] The Constitution of India, Article, 12-35
- [25] The Directive Principles of State Policy, Part IV, The Constitution of India, Article 36-51.
- [26] The Protection of Human Rights Act, No. 10 of 1994, India Code (1994).
- [27] The Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal)Act, No. 14 of 2013, India Code (2013).
- [28] Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, India Code (2016).
- [29] Vishaka v. State of Rajasthan, (1997) 6 S.C.C. 241 (India).
- [30] D.K. Basu v. State of West Bengal, (1997) 1 S.C.C. 416 (India).
- [31] People's Union for Civil Liberties v. Union of India, (1997) 1 S.C.C. 301 (India)
- [32] Criminal Law (Amendment) Act, No. 13 of 2013, India Code (2013).
- [33] Rights of Persons with Disabilities Act, No. 49 of 2016, India Code (2016)

- [34] G.A. Res. 217 (III) A, Universal Declaration of Human Rights, Art. 3 (Dec. 10, 1948); Indian Constitution, Article 21
- [35] International Covenant on Civil and Polotical Rights, Dec. 16. 1996 Article 4, 999 U.N.T.S. 171
- [36] Constitution of The United States, (1787).
- [37] Id. Amendment, I-X.
- [38] Id. Amendment, XIII-XV.
- [39] Id. Amendment, XIV, & 1.
- [40] Brown v. Bd. Of Educ., 347 U.S. 483 (1954)
- [41] Roe v. Wade, 410 U.S. 113 (1973); Obergefell v. Hodges, 576 U.S. 644 (2015)
- [42] Constitution of The United States, Article VI, cl. 2.
- [43] International Covenant on Cicil and Political Rights, Dec. 16, 1996, 999 U.N.T.S 171; Convention on the Elimination of All forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.
- [44] Magna Carta, 1215 (Eng.).
- [45] Bill of Rights, 1689, 1 W. & M.c.2 (Eng.).
- [46] Human Rights Act, 1998, C. 42 (U.K.).
- [47] Id. & 3.
- [48] Id. & 4.
- [49] Constitution of the Republic of South Africa, 1996, Ch.2.
- [50] Id. & 26-27.