

The Impact of International Human Rights Treaties on Domestic Legal Systems: A Comprehensive Analysis

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Abstract

Human rights and existing international law are based on agreements. This research shows that international treaties have an impact on domestic legal systems. The Universal Declaration through the International Covenants and regional accords, every human rights treaty is dissected and analyzed. The civil, political, economic, social, and cultural liberties of citizens in numerous countries are guaranteed by these treaties. The direct enforcement of treaties by domestic courts is affected by the monism and dualism of state governments. Some states do authorize lawsuits under international human rights legislation, as shown by the case studies. The impact of international human rights treaties on domestic law and policy is the subject of this research. The process through which nations enact domestic legislation in accordance with international accords is analyzed. Human rights protection in those countries was bolstered, as shown by the case studies. The domestic legislation is interpreted by the human rights treaties. This research looks at domestic court cases that have used human rights arguments from a global context. The justice system at home protects civil liberties. This research investigates the relationship between international human rights agreements and domestic legal systems. The study demonstrates the multifaceted influence of international human rights accords on domestic law. It emphasizes the importance of these agreements in promoting human dignity and justice around the world and offers suggestions for maximizing their impact on national law and policy.

Key Words: International Human Rights, Treaties, Domestic Law, Comparative Analysis, International Legal Framework, Domestic Legal Framework

Introduction

The international framework for human rights, grounded in the ideals of equality, dignity, and justice, has served as a source of inspiration and has advanced the development of contemporary global legal norms⁴. The foundational principles of the system are upheld by international agreements that ensure individuals'

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⁴ Marks, Stephen P. 2001. "The Human Rights Framework for Development: Five Approaches." 1–29.

entitlement to life, liberty, and the pursuit of happiness⁵. The global advancement of human rights has been facilitated through a series of treaties, commencing with the ratification of the Universal Declaration of Human Rights in 1948, and subsequently supplemented by successive notable international covenants and regional agreements⁶. The historical context surrounding these treaties serves as evidence of the international community's resolve to avert such calamities⁷. Following the occurrence of two profoundly destructive conflicts and the Holocaust, there emerged a collective acknowledgment among the global community regarding the imperative to establish a comprehensive structure aimed at safeguarding the fundamental rights of individuals^{8,9}. The Universal Declaration of Human Rights, which received the backing of prominent individuals such as Eleanor Roosevelt, was officially adopted by the United Nations General Assembly in December of 1948¹⁰. The document established a solid foundation for subsequent international human rights agreements by presenting a comprehensive framework of rights and values as a basis for further development. The adoption of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in 1966 marked a significant milestone in establishing a robust legal framework for the safeguarding of human rights¹¹. The aforementioned accords delineated a spectrum of rights encompassing civil and political liberties as well as economic, social, and cultural entitlements, so demonstrating their broad and enduring importance across diverse contexts¹².

The present study aims to analyze the complex interplay between regional legal systems and international human rights agreements¹³. The objective of this study is to elucidate the significant influence exerted by these treaties on state legislation, governmental policies, and court rulings. This study examines the extent to which different nations have integrated treaty commitments into their

⁵ Ahmedzai, S. H., A. Costa, C. Blengini, A. Bosch, J. Sanz-Ortiz, V. Ventafridda, and S. C. Verhagen. 2004. "A New International Framework for Palliative Care." *European Journal of Cancer* 40(15):2192–2200. doi: 10.1016/j.ejca.2004.06.009

⁶ Helfer, Laurence R. 2007. "Toward a Human Rights Framework for Intellectual Property." *University of California, Davis, Law Review* 40:971.

⁷ Lund, Michael S. 2009. *Conflict Prevention: Theory in Pursuit of Policy and Practice*.

⁸ Irwin-Zarecka, Iwona, and Zygmunt Bauman. 1991. "Modernity and the Holocaust." *Contemporary Sociology* 20(2):216. doi: 10.2307/2072918

⁹ Ray, Larry. 2014. "Modernity and the Holocaust." *Violence & Society* 169–90. doi: 10.4135/9781473914605.n10.

¹⁰ McFarland, Sam. 2017. "The Universal Declaration of Human Rights: A Tribute to Its Architects." *Public Integrity* 19(2):108–22. doi: 10.1080/10999922.2016.1222228.

¹¹ Harland, Christopher. 2000. "The Status of the International Covenant on Civil and Political Rights (ICCPR) in the Domestic Law of State Parties: An Initial Global Survey through UN Human Rights Committee Documents." *Human Rights Quarterly* 22(1):187–260. doi: 10.1353/hrq.2000.0008

¹² Ramcharan, Bertrand G. 2021. "International Covenant on Economic, Social and Cultural Rights." *Judicial Protection of Economic, Social and Cultural Rights* 5–16. doi: 10.1163/9789047408123_003.

¹³ Nancie Prud'homme. 2007. "Lex Specialis: Oversimplifying a More Complex and Multifaceted Relationship." *Israel Law Review* 40.

own domestic legal frameworks. These treaties play a crucial role in enabling the domestic adjudication necessary for the worldwide promotion of human rights norms. National institutions play a vital role in the enforcement of conformity with human rights treaties and the monitoring of domestic human rights performance. The laws and policies pertaining to the protection of human rights and social justice in numerous countries have experienced substantial enhancements due to these transformations. In numerous instances, the need for these modifications has been compelled by the stipulations outlined in treaties¹⁴. The growing significance of domestic courts in safeguarding human rights within national legal frameworks is evidenced by the essential role played by judicial decision-making in relation to the impact of international treaties on domestic legislation. The impact of international human rights agreements on domestic legal systems has been significant; nonetheless, several obstacles and restrictions continue to exist¹⁵. The results underscore the presence of obstacles, including inadequate resources and a dearth of commitment. Furthermore, it acknowledges the presence of political dissent towards global standards inside local contexts.

There is a wealth of knowledge to be gained via the comparative analysis of how different states execute these agreements. It is imperative to conduct comparative analyses of outcomes across countries characterized by significantly diverse political and legal frameworks. The negotiated international human rights agreements have exerted substantial influence on domestic legal systems¹⁶. This research article recognizes the crucial importance of these agreements and provides valuable perspectives and recommendations for augmenting their influence on regional legislation and governmental regulations. In order to address the global issue pertaining to the safeguarding of human rights, it is imperative to comprehend the complex dynamics that exist between international and domestic legal frameworks. The absence of this consciousness renders any advancement towards the attainment of human dignity and justice unattainable. The authors of the study posit that their findings possess the potential to act as a catalyst for further research endeavors aimed at safeguarding human rights, thereby making a substantial contribution to the ongoing discourse around this topic.

Problem Statement

To investigate how international human rights treaties impact domestic legal systems and modify legislation, policies, and judicial practices.

¹⁴ Mapp, Susan C. 2010. "Human Rights and Social Justice in a Global Perspective: An Introduction to International Social Work." *Human Rights and Social Justice in a Global Perspective: An Introduction to International Social Work* 1–250. doi: 10.1093/acprof:oso/9780195313451.001.0001.

¹⁵ Lupu, Yonatan. 2013. *Best Evidence: The Role of Information in Domestic Judicial Enforcement of International Human Rights Agreements*. Vol. 67.

¹⁶ Risse, Thomas, and Stephen C. Ropp. 2009. "International Human Rights Norms and Domestic Change: Conclusions." *The Power of Human Rights* 234–78. doi: 10.1017/cbo9780511598777.009.

Framework and Development of International Human Rights Treaties Background

After World War II, when pervasive violations of human rights and tragedies such as the Holocaust were common, nations began to collaborate to develop international human rights agreements¹⁷. Nations have begun to recognize the significance of establishing a global framework to defend and expand human rights as a result of these atrocities. On 10 December 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights (UDHR), marking a pivotal turning point¹⁸. The comprehensive UDHR addresses global rights and goals. Eleanor Roosevelt and others wrote this legal and cultural work. Civil, political, economic, social, and cultural rights were emphasized¹⁹.

UDHR approval changed history by creating international human rights agreements. Legal enforcement for the document was inadequate. Treaties had clear goals. The 1966 International Covenant on Civil and Political Rights and Economic, Social, and Cultural Rights safeguards human rights. This treaties' complex legal system protects UDHR universal human rights²⁰. A fair trial, press, and life are protected by the ICCPR. The International Covenant on Economic, Social, and Cultural Rights (ICESCR) uniquely guarantees a decent livelihood, education, and work freedom²¹. Regional human rights accords addressed regional issues. Ratification of the 1950 European Convention on Human Rights was crucial. This pact created European human rights²². African rights and liberties are protected under the 1981 African Charter, like the Universal Declaration of Human Rights²³. International human rights accords become more effective and comprehensive when expanded and consolidated. The 1989 Convention on the Rights of the Child and the 1979 Convention on the Elimination of All Forms of Discrimination against Women address expanding human rights challenges. Many laws promote these accords' worldwide human rights goals. Human rights protection now rests on the international community's dedication to individual

¹⁷ Thomas Buergenthal. 1997. "The Normative and Institutional Evolution of International Human Rights." *Human Rights Quarterly* 19:703.

¹⁸ Lee-Koo, Katrina. 2019. "The Universal Declaration of Human Rights at 70: Children's Rights." *Australian Journal of International Affairs* 73(4):326–30. doi: 10.1080/10357718.2019.1631251.

¹⁹ Volger, Helmut, and Kofi Annan. 2021. "Human Rights, Universal Declaration Of." *A Concise Encyclopedia of the United Nations* 223–29. doi: 10.1163/9789004481206_052.

²⁰ Sari, Ade Risna, and Amtai Alaslan. 2023. "Protecting Civil and Political Rights: Comparative Analysis of International Human Rights Mechanisms." *The Easta Journal Law and Human*

²¹ Dowell-Jones, Mary. 2021. "Contextualising the International Covenant on Economic, Social and Cultural Rights." *Contextualising the International Covenant on Economic, Social and Cultural Rights*. doi: 10.1163/97890047405603.

²² Christoffersen, Jonas, and Mikael Rask Madsen. 2011. *The European Court of Human Rights between Law and Politics*.

²³ Hansungule, Michelo. 2012. "The African Charter on Human and Peoples' Rights." *The African Union: Legal and Institutional Framework: A Manual on the Pan-African Organization* 417–53. doi: 10.1163/9789004227729.

worth, equality, and justice²⁴.

Principle of UDHR

- *Everyone is born with rights and liberties, under the UDHR. This idea in human value underpins all other human rights.*
- *The UDHR prohibits nations from denying their citizens their divinely endowed rights. No matter their background, everyone deserves preventive measures.*
- *The UDHR provides freedom, dignity, and rights from birth. Skin colour, gender, language, religion, political beliefs, place of birth, socioeconomic status, and nationality are protected from discrimination²⁵.*
- *UDHR covers civil, political, economic, social, and cultural rights. This includes life, liberty, security, freedom from torture and servitude, work and family support, high-quality education and healthcare, and other entitlements.*

Obligations of UDHR

- *States agree to protect UDHR universal human rights.*
- *State laws must protect these rights and prevent violations by individuals or businesses under its jurisdiction.*
- *States must defend human rights. Activities promoting full rights are crucial. Influence legislation, provide critical services, and correct injustice.*
- *State law, policy, and practices must safeguard everyone against prejudice. It's vital to eliminate prejudice and foster tolerance²⁶.*

(ICCPR): International Covenant on Civil and Political Rights

Principle of (ICCPR)

- *The International Covenant on Civil and Political Rights (ICCPR) guarantees the right to life, which cannot be denied under specific conditions.*
- *The covenant prohibits torture and cruel, severe, or degrading treatment.*
- *Freedom of belief and expression includes independent cognitive processes, personal emotions, convictions, and unrestricted thoughts and opinions. The International Covenant on Civil and Political Rights (ICCPR) guarantees a*

²⁴ Dixon, Kwame. 2010. "Racial Discrimination and Human Rights in the Global Context: The International Convention on the Elimination of All Forms of Discrimination." *Sociology Compass* 4(9):789–99. doi: 10.1111/j.1751-9020.2010.00315.x.

²⁵ Sieckmann, Jan. 2018. "Proportionality as a Universal Human Rights Principle." *Proportionality in Law: An Analytical Perspective* 3–24. doi: 10.1007/978-3-319-89647-2_1.

²⁶ Skogly, Sigrun I. 2010. "Extraterritoriality: Universal Human Rights without Universal Obligations?" *Research Handbook On International Human Rights Law* 71–96. doi: 10.4337/9781849803373.00008.

*fair, public trial overseen by a competent, autonomous, and impartial judiciary*²⁷.

Obligations of (ICCPR)

- *All individuals must be accorded the rights protected by the International Covenant on Civil and Political Rights (ICCPR).*
- *Infringing on civil and political rights, whether by government or non-government entities, is morally and ethically wrong.*
- *Legislation must protect the legal rights of incarcerated individuals, including due process and legal safeguards*²⁸.

Domestic Law Ratification and Incorporation, Countries' Human Rights Treaty Ratification Processes

In order to be bound by the defined safeguards and obligations outlined in international human rights treaties, a nation is required to formally ratify these accords. The act of a nation affixing its signature to a treaty represents the initial stage in the process of formalizing its membership in the agreement. It is important to consider that the act of signing a document does not impose legal obligations on a country²⁹.

Subsequently, the treaty necessitates assessment and endorsement by the domestic legal framework of the respective nation. Different nations employ diverse approaches to this technique, which are contingent upon their distinct legal systems and constitutions. In the majority of cases, the participation of pertinent governmental entities, consultation with legal professionals, and occasionally even endorsement from the legislative body are necessary. The process of formal ratification or accession to a treaty by a nation often involves a comprehensive evaluation and subsequent endorsement at the national level. When a government submits the instrument of ratification to the depositary, which is typically an international organization such as the United Nations, it formally expresses its commitment to the treaty it has endorsed. Nevertheless, a state that did not initially sign the convention has the opportunity to join it through a formal process known as "accession. Once a country ratifies or accedes to the treaty, the provisions therein become legally enforceable and are incorporated into the country's domestic legislation. The government is required under the treaty to guarantee that

²⁷ Eymirlioglu, Burak Cop and Dogan. 2005. "The Right of Self-Determination in International Law towards THE 40th ANNIVERSARY OF THE ADOPTION OF ICCPR AND ICESCR." *Perceptions: Journal of International Affairs (Lm)*:115–46.

²⁸ Van Kempen, P. H. P. H. M. C. 2008. "Positive Obligations to Ensure the Human Rights of Prisoners. Safety, Healthcare, Conjugal Visits and the Possibility of Founding a Family under the ICCPR, the ECHR, the ACHR, and the AfChHPR." *Prison Policy and Prisoners' Rights: The Protection of Prisoners' Fundamental Rights in International and Domestic Law* 21–44.

²⁹ Goodman, Ryan, and Derek Jinks. 2003. "Rights Treaties." *Comparative and General Pharmacology* 14(1):171–83.

its laws, policies, and practices align with the commitments it has made. The act of ratification serves as an indication of a government's commitment to supporting international human rights standards within the realm of international law³⁰.

The entity responsible for receiving the instrument of ratification or accession from a country is commonly referred to as the depositary of the treaty. The act of making this deposit serves as the official acknowledgment by the nation of its acceptance of the treaty, so establishing the nation's status as a party to the treaty. The establishment of a monitoring organization or committee as stipulated by the treaty may necessitate the submission of regular reports by the country, detailing the actions undertaken to implement the requirements of the treaty and safeguard the rights conferred by the treaty. Bodies responsible for the monitoring and implementation of international treaties consist of impartial specialists. These organizations evaluate a nation's dedication to the treaty and provide suggestions for enhancing compliance. The fulfillment of treaty body recommendations necessitates the regularity of reporting, discussion, and implementation. The promotion of accountability and the protection of human rights necessitate engagement at this magnitude.

Many nations incorporate interpretive statements or reservations when they formally approve a treaty. A nation has the ability to modify its commitments within a treaty through the act of making a reservation, while it can provide further elucidation on particular provisions of the treaty by issuing a declaration. The objectives of the treaty will be employed to assess the compatibility of these declarations and reservations with the underlying principles and intentions of the treaty. The process of ratification exemplifies a nation's commitment to respecting international human rights norms. However, it is conceivable, albeit uncommon, for a government to decline or withdraw from such agreements. The act of retracting a nation's endorsement from a treaty often follows a formal procedure.

Approaches Related to Incorporating Treaties into Domestic Legal System

Monism

The monistic legal system integrates international law with domestic law. In a monistic state, the terms of a treaty are automatically integrated into domestic law upon ratification of the treaty. In the absence of a requirement for further domestic legislation, this implies that individuals possess the ability to immediately exercise and enforce their treaty rights inside domestic judicial systems³¹.

Principle of monism approach

Applicability

³⁰ Simmons, Beth A. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics*.

³¹ Jackson, John H. 1992. "Status of Treaties in Domestic Legal Systems: A Policy Analysis." *American Journal of International Law* 86(2):310–40. doi: 10.2307/2203236.

Once a treaty has been ratified, the residents and judicial system of a nation are obligated to adhere to its provisions. Consequently, the rights and obligations that are established through treaties have the capacity to directly impact persons and can be enforced in a manner akin to domestic legislation³².

International Law's Supremacy

In legal systems adhering to monism, the primacy is given to international law over national laws that may be in contradiction. In the event of a conflict between a domestic law and an international treaty, the latter will take precedence and regulate the situation.

Harmonious Coexistence

There is typically no contradiction between domestic law and international law. Domestic courts hold a pivotal position within domestic legal systems as they are responsible for the interpretation and implementation of international treaty requirements. Monist legal systems are present in various countries, including Germany, the Netherlands, and France, among others. The significance of these states' commitment to international law and the treaties they have ratified cannot be overemphasized.

Dualism

The philosophical perspective of monism, the concept of dualism upholds the notion of maintaining a distinct division between international and domestic legal systems. In a dualistic framework, the process of international ratification of a treaty does not automatically confer domestic legal status upon it. In order to ensure the recognition of the treaty's provisions within a domestic legal system, it becomes necessary to implement domestic legislation or constitutional modifications that effectively incorporate the articles of the treaty into domestic law.

Principle of dualism approach

Separate Legal Systems:

In legislative systems characterized by dualism, the two tiers of legal frameworks, namely international and domestic law, are regarded as separate entities. International treaties do not possess legally binding force within domestic courts unless they have undergone the process of ratification by the relevant state authorities³³.

Emphasis on Sovereignty

³² Ibid

³³ Anthony, William. 1999. "DUALISM, DUALITY AND THE."

In legal systems that adhere to dualism, the preservation of the autonomy of domestic legal systems and the prioritization of national sovereignty are commonly maintained. The incorporation of international treaty commitments into domestic law is important in order to uphold the supremacy of domestic law.

Legislative Involvement

In dualist countries, the complete integration of international treaty commitments into domestic law necessitates the enactment of legislation or the modification of existing domestic legal frameworks. The facilitation of this process may necessitate the creation of new laws or the modification of existing legal frameworks.

The prevailing belief is that British culture has a tendency towards dualism. The translation of international law into domestic law can become more intricate in dualist regimes due to the potential influence of legislative action or judicial interpretation on international treaty commitments.

It is advisable to allocate additional attention to countries whose philosophical frameworks encompass a synthesis of monism and dualism. The integration of international treaty provisions into domestic law might occur by means of existing statutes. In certain instances, it may be necessary to enact additional legislation in order to adequately fulfill the responsibilities outlined in the international treaty. The determination between monism and dualism is influenced by various factors, including a nation's legal tradition, constitutional structure, and internal legal standards. Additionally, this decision involves navigating the complex interplay between international obligations and national autonomy³⁴.

Monist Countries

Germany

Germany, formally known as the Federal Republic of Germany, might be regarded as a paradigmatic illustration of a monist state. Upon ratification, the provisions of any treaty that Germany has acceded to are incorporated into German law. There is no requirement for further domestic legislation in Germany in order to execute these laws within the country. The notion of the immediate applicability of international treaties is a fundamental tenet of German jurisprudence.

Netherlands

Just like Germany, the Dutch use a predominantly materialistic perspective when perceiving the world. Upon the ratification of the Treaty of Amsterdam by the Netherlands, the residents of the country acquired the immediate capacity to exercise their rights as stipulated in the Treaty under the jurisdiction of Dutch courts.

³⁴ Trichero, Roberto. 2014. "Five Research Principles to Overcome the Dualism Quantitative-Qualitative." *Education Sciences & Society* 5(1):45–65.

France

French domestic law undergoes automatic updates to incorporate newly ratified international treaties. The impact of international treaties on French domestic law can be observed through the imposition of legal requirements.

South Africa

South Africa is widely recognized for its unilateral stance towards international human rights agreements. The Constitution of South Africa guarantees the comprehensive incorporation of international law into the domestic legal framework, thereby enabling its enforcement within national courts³⁵.

Dualist Countries

Pakistan

Pakistan is seen as a dualist state due to its method of domestically implementing international agreements. Pakistan exhibits a delay in the timely implementation of international treaties and accords, even subsequent to their approval. In order to ensure enforceability within the legal framework of Pakistan, treaty provisions must be effectively incorporated into domestic law through the implementation of certain legislative measures. The dualist approach observed in Pakistan's legal system reflects the distinct division between international law and domestic law. This difference is deemed important due to the requirement of local implementation for international treaty provisions to attain legal enforceability within the country.

UK

The United Kingdom is a sovereign country located off the northwestern coast of mainland Europe. It is composed of four constituent countries: England, Scotland, Wales, and Northern Ireland. It is well recognized that the United Kingdom operates under a dualist legal system. In the United Kingdom, the incorporation of international treaties into domestic law does not occur automatically, even subsequent to their approval. In order for treaty provisions to possess legal force within a nation, it is imperative that they undergo the process of ratification and subsequent enactment into law by the relevant governing body.

USA

Due to its adherence to a dualist legal framework, the United States does not immediately integrate international accords into its domestic legal system. According to the United States Constitution, the Senate is responsible for ratifying treaties, and the fulfillment of treaty commitments may require the enactment of

³⁵ Starke, Joseph G. 2012. "Monism and Dualism in the Theory of International Law*." Normativity and Norms Critical Perspectives on Kelsenian Themes 537–52. doi: 10.1093/acprof:oso/9780198763154.003.0029.

new legislation.

Canada

Canada also exhibits a dualistic perspective. In order for international accords to possess legal force in Canada, it is imperative for the government to pass related legislation. In Canada, the legal enforceability of treaty terms is contingent upon their domestic implementation.

Australia

Australia adopts a dualist stance on international law. In Australia, the automatic incorporation of international treaties into domestic law does not occur upon ratification. In order to incorporate treaty terms into domestic law, the enactment of legislation is necessary³⁶.

Discussion:

There exist numerous approaches by which country have incorporated the treaty obligations of international organizations into their domestic legal frameworks. The determination regarding the choice between monism and dualism is shaped by various factors, encompassing the interplay between international law and domestic sovereignty, a nation's legal past, constitutional framework, and indigenous legal customs.

Human Rights Treaties' Applicability and Justice

The extent to which human rights treaties are directly applicable in domestic courts varies significantly across different countries, mostly due to variations in legal systems and constitutional frameworks. Countries that embrace a monist legal framework are more inclined to implement human rights agreements. After a nation ratifies an international human rights treaty, its domestic legislation will undergo revisions in order to align with the requirements outlined in the treaty. Consequently, the residents of that nation will possess the capacity to directly invoke and enforce their rights within the jurisdiction of domestic courts. Germany and South Africa are two illustrative instances of nations that adopt this approach, wherein their constitutions accord paramount importance to international law and allow for the incorporation of international treaties into their domestic legal systems³⁷.

In jurisdictions characterized by a dualist legal system, it is frequently necessary to promulgate domestic legislation in order to confer immediate applicability to human rights accords inside their territorial confines.

³⁶ Turley, Jonathan. 1993. "Dualistic Values in the Age of International Legisprudence." *Hastings L.J.* 44(2):185.

³⁷ Francioni, Francesco. 2007. "Access to Justice as a Human Right." *Access to Justice as a Human Right* 1–276. doi: 10.1093/acprof:oso/9780199233083.001.0001.

Consequently, the enforcement of treaty obligations in domestic courts may be hindered despite the ratification of said instrument. As an alternative, it is imperative that they undergo a process of "domestication," which typically involves obtaining endorsement from and successfully navigating the legislative procedures of the pertinent governing body. The United Kingdom and Australia are widely recognized as prominent examples of dualist governments that advocate for the modification of domestic legislation in order to align with international treaties.

Domestic courts operating inside dualist regimes can experience a discernible impact from human rights accords, although indirectly, nevertheless with substantial significance. U.S. courts have the ability to align their judgments with the provisions outlined in applicable treaties by embracing an interpretation of the law that is in harmony with internationally recognized human rights standards. The effective incorporation of treaty concepts into domestic law can be achieved through the progressive establishment of a jurisprudential framework. This procedural mechanism enables the incorporation of human rights agreements into domestic court rulings, even in jurisdictions where their direct applicability is not immediate.

When states ratify human rights treaties, the inclusion of reservations or declarations may result in the non-direct applicability of the treaty's rules within domestic courts. The limited applicability of certain treaty clauses within a country may arise as a result of reservations or declarations. It is incumbent for domestic courts to take into account these reservations or statements during the process of interpreting and implementing the treaty, as they modify the degree to which treaty obligations can be promptly enforced in domestic legal procedures. Supervisory bodies responsible for overseeing treaty compliance, such as the Human Rights Committee operating within the framework of the International Covenant on Civil and Political Rights (ICCPR), exert considerable influence in establishing the instant enforceability of a treaty³⁸. In jurisdictions where individuals have the ability to escalate their grievances to a superior entity, the rulings of international bodies may exert an indirect influence on domestic courts. When there are suspicions of violations of human rights treaties, domestic courts have the option to take into account the conclusions and recommendations put out by these agencies. The extent to which human rights treaties can be directly applied in domestic courts is contingent upon various circumstances, including the legal framework of a given country, constitutional provisions, legislative enactments, and judicial interpretations. In the majority of nations, the process of enacting treaties into law involves undergoing a legislative procedure. However, there are several countries that afford treaties direct applicability inside their

³⁸ Payne, Caroline L., and M. Rodwan Abouharb. 2016. "The International Covenant on Civil and Political Rights and the Strategic Shift to Forced Disappearance." *Journal of Human Rights* 15(2):1–26. doi: 10.1080/14754835.2015.1103158.

domestic legal framework. Even within political systems characterized by dualism, the influence of human rights treaties on domestic judicial decisions can be significant, facilitating the gradual development and implementation of international human rights concepts within the national context.

Affirmity of International Human rights in Pakistan

For effective protection and enforcement, human rights norms must be justiciable. Human rights principles are usually justiciable under the law, constitution, and courts.

In its Bill of Rights, Pakistan's 1973 Constitution offers basic liberties and overarching ideals. The constitution provides the basis for upholding and executing human rights laws. Chapter 1 of the constitution protects the rights to life, liberty, security, expression, assembly, and association. Equal protection under the law and freedom from discrimination are also guaranteed. Chapter 2 of this book discusses state policy fundamentals, focusing on social and economic fairness and public welfare. Policy principles guide legislative and executive acts that fulfill human rights obligations, but they are not legally binding. The constitutional guarantee of human rights and values in Pakistan makes court enforcement possible. File a lawsuit if you think the government violated your rights.

Pakistani law must expressly acknowledge and uphold human rights. Parliament has passed various laws to protect and improve basic rights. The landmark 2010 Protection against Harassment of Women in the Workplace Act protects women's rights by prohibiting workplace gender-based discrimination and harassment. The 2012 National Commission on the Status of Women Act established a nationwide commission to review and analyze laws, policies, and processes that affect women. Pakistan's pioneering Transgender Persons (Protection of Rights) Act, 2018, guarantees transgender people identity and protection from discrimination. New laws have brought Pakistan into compliance with international human rights standards. These laws assure human rights compliance and lay the groundwork for victims to sue.

The legal system is crucial to human rights justiciability. The Supreme Court and High Courts of Pakistan have shaped human rights in Pakistan. Human rights advocates can litigate for their rights since the courts allow Public Interest Litigation (PIL). Law accessibility and individual rights enforcement have improved since the strategy was implemented. There is factual evidence of judicial activism, where judges actively shape and interpret the law to protect individual rights. The court has heard cases of gender-based violence, environmental contamination, and missing people. The court checks laws and presidential directives for constitutionality and invalidates them if they violate human rights. Pakistan's law, legislation, and constitution allow human rights litigation. These components create a legislative framework that allows victims of human rights

violations to sue, ensures global human rights standards, and gives the court a major role in protecting fundamental liberties³⁹.

Landmark Judgements on Human Rights in Domestic and International Law

Suo Motu Case on Missing Persons (2010 - Present) :(Pakistan)

The Supreme Court of Pakistan has "taken suo motu notice" of a number of cases, including extrajudicial murders and enforced disappearances. The court's analysis of the legality of the defendants' detentions has relied on international human rights standards. Such international human rights legislation includes the Convention against Torture (CAT) and the International Covenant on Civil and Political Rights (ICCPR). The court has issued orders for the repatriation of some missing people and investigations into claims of human rights abuses by government personnel.

Salman Taseer Assassination Case (2011)

Mumtaz Qadri v. The State

The Lahore High Court has ruled that Mumtaz Qadri is accountable for the assassination of Salman Taseer, the governor of Punjab. Qadri assassinated Taseer as a result of the latter's opposition to Pakistan's blasphemy laws. The court's decision to find Qadri guilty was influenced by international human rights standards, which include the prohibition of hate crimes and the recognition of the right to life.

The Maneka Gandhi Case (India)

Article 21 of the Indian Constitution ensures the protection of personal liberty, a fundamental right that has been subject to interpretation by the Indian Supreme Court in accordance with established international human rights norms and principles. Maneka Gandhi's passport was confiscated without affording her an opportunity for due process. The court reached the determination that the inclusion of the right to travel internationally within the constitutionally protected freedoms of individuals necessitates that any limitations imposed upon said right adhere to principles of fairness and reasonableness. The court demonstrated a significant reliance on international human rights concepts in establishing domestic law, as evidenced by its citation of the Universal Declaration of Human Rights and other international agreements.

The Belmarsh Detainees Case (United Kingdom)

The case of *A v. Secretary of State for the Home Department* (2004), commonly

³⁹ Arzt, Donna E. 1990. "The Application of International Human Rights Law in Islamic States." *Human Rights Quarterly* 12(2):202. doi: 10.2307/762377.

referred to as the Belmarsh Detainees case, involved a review by the Supreme Court of the United Kingdom, formerly known as the House of Lords, of the Anti-terrorism, Crime, and Security Act 2001's lack of compatibility with the European Convention on Human Rights (ECHR). The House of Lords rendered a verdict declaring the detention measures to be in violation of the law. The aforementioned judgement, which expressly incorporates international human rights norms inside the domestic legal framework, exemplifies the impact of international treaties on the legal system of the United Kingdom.

The Case of Tawanda Chandiwana (Zimbabwe)

In the case of Zimbabwe Lawyers for Human Rights v. Mugabe (2008), the Supreme Court of Zimbabwe determined that the land reform initiatives implemented by the Zimbabwean government were found to be in contravention of both the SADC Treaty and the African Charter on Human and Peoples' Rights. The Court acknowledged the significance of international human rights agreements and their potential use in domestic legal procedures.

The Case of Karen Atala Riffo (Chile)

The Inter-American Court of Human Rights rendered a significant decision in the matter of Atala Riffo and Daughters v. Chile (2012), whereby it determined that Chile had engaged in discriminatory practices against Karen Atala Riffo, an individual who identifies as a lesbian and also happens to be a mother. The ruling highlighted Chile's responsibility to uphold the rights enshrined in the American Convention on Human Rights. As a consequence of this particular instance, modifications were implemented in Chilean legislation and policy in order to align them more closely with established international human rights norms.

The Case of Leyla Sahin (Turkey)

The case of Leyla Sahin v. Turkey (2005) pertained to the examination conducted by the European Court of Human Rights (ECtHR) on the potential infringement upon the freedom of religion resulting from Turkey's prohibition on the wearing of Islamic headscarves in educational institutions. According to the European Court of Human Rights, Turkey's actions were found to be in compliance with the Convention, reaffirming the court's position that states possess a certain degree of discretion in managing religious affairs. Despite the primary emphasis of the case being Turkey's adherence to the European Convention on Human Rights (ECHR), it still exemplified the practical implementation of global standards for human rights.

National Implementation Mechanisms

In order to effectively enforce and uphold international human rights treaties and agreements at the domestic level, National Implementation Mechanisms (NIMs)

are occasionally included into human rights frameworks. These infrastructures play a crucial role in achieving various objectives. The principal objective of the development of NIMs is to aid states in fulfilling their international human rights commitments. National institutional mechanisms (NIMs) play a crucial role in aligning global human rights principles with national legal frameworks, hence facilitating their harmonization.

Safeguarding and enhancing the rights of individuals throughout a country is an additional significant role fulfilled by NIMs. One of the primary functions of protecting individuals' rights is the establishment of measures aimed at preventing violations and providing compensation to those who have been victimized. NIMs engage in a range of strategies, such as conducting investigations, engaging in lobbying efforts, and implementing awareness programs, in order to safeguard individuals against violations of their rights and foster a climate that upholds and honors these rights⁴⁰.

Non-governmental international organizations (NIMs) typically operate in the domains of coordination and monitoring. These offices serve as the central hubs of the government, facilitating coordination across many ministries, agencies, and other institutions in order to fulfill international human rights obligations. The establishment of collaborative efforts is necessary in order to effectively incorporate the principles and obligations delineated in human rights treaties into domestic policies and practices. Furthermore, Non-Intrusive Measures (NIMs) play a crucial role in verifying the government's compliance with its international commitments.

National Implementing Mechanisms (NIMs) also bear the crucial obligation of consistently providing reports to international treaty authorities. The aforementioned reports assess the human rights performance of a nation and delineate the measures it has undertaken to adhere to its treaty obligations. Non-intrusive methodologies (NIMs) optimize the reporting process by facilitating the submission of pertinent information to the appropriate international entities in a timely manner.

NIMs possess the capacity to adopt diverse forms and dimensions, contingent upon the administrative and regulatory frameworks established within certain nations. Nevertheless, there exist certain recurring attributes within NIMs. The presence of human rights organizations at the national level is a recurring topic in non-governmental international movements (NIMs). Non-governmental organizations (NGOs) play a crucial role in bridging the gap between the government and civil society through their activities, which include conducting inquiries into human rights breaches, campaigning for justice, and raising public awareness⁴¹.

⁴⁰ Rosas, Allan, and Martin Scheinin. 2001. "Implementation Mechanisms and Remedies." Pp. 425–53 in *Economic, Social and Cultural Rights*. Brill | Nijhoff.

⁴¹ Critelli, Filomena M. 2010. "Women's Rights=human Rights: Pakistani Women against Gender

Non-governmental organizations (NGOs) play a crucial role in tackling human rights concerns, including but not limited to sex discrimination and worker rights, and in complementing the efforts of government institutions dedicated to resolving these matters. By formulating policies, enacting legislation, and implementing programs that align with these established criteria, their objective is to guarantee the incorporation of international human rights principles into domestic legal frameworks.

Non-governmental organizations (NGOs) and civil society organizations (CSOs) are significant actors within the context of Nonproliferation and International Security Measures (NIMs). They vigilantly monitor many aspects, safeguard the rights of individuals, promote consciousness, and actively participate in grassroots initiatives aimed at enhancing comprehension and reverence for human rights.

The inclusion of a National Implementation Mechanism is a fundamental component within the context of any human rights framework. They serve to protect individuals from violations of their rights and collaborate in the implementation of universal human rights principles within a domestic context, ensuring that nations fulfill their obligations under international human rights law. NIMs serve as a platform for governments, NHRIs, civil society organizations, and NGOs to engage in collaborative endeavors aimed at advancing and safeguarding human rights. Additionally, NIMs facilitate the process of reporting these initiatives to international treaty bodies⁴².

Legislative and Policy Reforms

Countries can comply with international human rights responsibilities by reforming their laws and policies. National human rights development and protection require structural reforms.

An effective legislative makeover requires integrating international human rights agreements into local law. Legislation incorporating treaty provisions into domestic law is called "domestication". Through this strategy, countries allow their citizens to use their national judicial systems to protect their international treaty rights. Legislative reforms are needed to legitimize international human rights concepts in a nation⁴³.

Legal uncertainties and discrepancies between local legislation and international human rights principles might be addressed through legislative initiatives. Human rights legislation that violates the constitution or fails to protect specific groups is typically repealed. Decriminalizing activities that violate

Violence." *Journal of Sociology and Social Welfare* 37(2):135–60. doi: 10.15453/0191-5096.3517.

⁴² O'Flaherty, Michael, and John Fisher. 2008. "Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles." *Human Rights Law Review* 8(2):207–48. doi: 10.1093/hrlr/ngn009.

⁴³ Rajamani, Lavanya, Mac Darrow, and Siobhan McInerney-Lankford. 2011. "Human Rights and Climate Change: A Review of the International Legal Dimension." 162.

international human rights standards is one way to achieve this goal. This goal can also be achieved through strengthening protections for marginalized groups and abolishing discriminatory laws. These changes align local laws with international conventions.

Policy improvements are as important as legal changes in aligning government operations and policies with human rights. To meet international human rights obligations, governments create and change policies in education, healthcare, justice, labor, and social welfare. Policy reforms should include strategy, funding, and monitoring and evaluation of human rights efforts.

Training and education programs often accompany new laws and regulations. These programs educate government officials, police officers, and judges on their legal duties to uphold human rights principles and processes. Effective implementation of new laws and regulations that comply with international human rights norms requires well-informed and trained staff.

Civil society organizations, human rights activists, and affected communities should be involved in reform. Including these groups' perspectives in change processes helps recognize valid public concerns and promote consensus on crucial human rights issues. Engagement in the community increases the likelihood of successful improvements.

Legislation and policy changes must include monitoring and accountability. Human rights commissions and ombudsman offices review legislation and regulation implementation in practice. Government-sponsored human rights violations are prevented and remedied by human rights groups like the one under discussion. Reforms are more likely when progress is monitored and evaluated.

Policy and legal innovations improve international treaty organization reporting. International human rights agreements require periodic reports from nations. This reporting technique streamlines and comprehensively assesses a nation's international commitments, promoting global openness and responsibility.

States must change their laws and practices to fulfill their international human rights duties. The changes include a structured framework, legal clarity, strategic guidelines, operational capacity building, stakeholder involvement, activity oversight, and duty allocation. By actively participating in these processes and creating a legal and policy framework that meets international norms, countries can preserve human rights.

Judicial Decision-Making and Precedent

The judicial decision-making process holds significant importance within our legal system as it entails the careful evaluation and consideration of arguments, facts, and legal principles by judges and justices in order to arrive at fair and unbiased conclusions. The inclusion of international human rights in this method enhances its significance, as it addresses intricate issues pertaining to the safeguarding and advancement of essential freedoms and liberties. The significance of judicial

rulings in shaping the understanding and implementation of international human rights agreements should not be ignored⁴⁴.

The notion of precedent, commonly referred to as legal precedent, holds significant importance in the judicial decision-making process. Lower courts are obligated to adhere to, or at the very least consider, the legal precedent established by higher courts in like instances. By upholding this concept, sometimes referred to as "stare decisis," it is anticipated that the law would be applied consistently and predictably. The establishment of a consistent framework for safeguarding international human rights is crucial in addressing such concerns, necessitating the utilization of legal precedent.

The influence of international human rights treaties, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, on the process of judicial decision-making is substantial. These accords play a crucial role in providing legal frameworks and guidance for courts by elucidating fundamental principles and norms in safeguarding human rights. When courts are faced with the task of interpreting and applying treaties, they commonly take into account many factors including the textual content of the treaties, the original intent of the drafters, and relevant international legal precedents.

The manner in which a nation executes international human rights agreements can have significant implications for the interpretation and impact of these treaties. Countries that adopt a "monist" perspective towards international law acknowledge and enforce treaties from other nations following their ratification. Nevertheless, proponents of dualism advocate for the incorporation of treaty provisions into domestic legislation. Regardless of the methodology employed, judges play a key role in guaranteeing the adherence to treaty obligations within domestic legal frameworks. Within the realm of international human rights, the process of decision-making necessitates a meticulous consideration and equilibrium between the rights of individuals and the legitimate interests of the state. It is imperative to accord equal importance to safeguarding human rights and upholding national security, public order, and the overall welfare. In order to verify the adherence of any restrictions imposed on rights to international norms, judicial bodies are required to engage in a nuanced process of balancing. Merely issuing a verdict that acknowledges a violation of human rights and granting compensatory damages in an international human rights lawsuit is insufficient for a court. The court has the authority to issue an order for restitution, compensation, or other forms of remedy to victims who have suffered from violations of their rights. These judgements demonstrate the state's commitment to upholding human rights and meeting its international responsibilities, while also guaranteeing fair

⁴⁴ Lupu, Yonatan, and Erik Voeten. 2012. "Precedent in International Courts: A Network Analysis of Case Citations by the European Court of Human Rights." *British Journal of Political Science* 42(2):413–39. doi: 10.1017/S0007123411000433.

treatment for all citizens.

In the realm of international human rights law, it is important to note that precedent is not immutable, but rather subject to evolutionary changes as time progresses. The courts frequently engage in the reinterpretation of the law as a response to shifting society norms, scientific advancements, and the increasing salience of human rights concerns. Furthermore, the judgements rendered by international and regional human rights courts exert a significant influence on the evolution of international law, so reshaping the framework of global human rights safeguarding and influencing the adjudicatory processes at the domestic level.

Comparative Analysis

The resolution of international human rights issues varies significantly across jurisdictions, encompassing a diverse array of approaches and resulting outcomes. The analysis and implementation of international human rights treaties and agreements can provide insight into the comparative strengths of various legal systems.

When it comes to the interpretation of international human rights norms, certain regional courts exhibit a greater degree of proactivity and expansiveness compared to others. It is widely held that domestic agreements of this nature possess inherent legal validity and are subject to enforcement. This approach frequently proves to be highly efficacious in safeguarding human rights within national boundaries. The European Court of Human Rights (ECtHR) has made substantial and noteworthy contributions to the development and advancement of human rights law within the European region. The judgements of this organization have spurred significant changes to domestic legislation, resulting in the establishment of robust human rights protections throughout all member states.

Nevertheless, several countries may adopt a cautious approach and need the integration of treaty provisions into domestic legislation prior to its enforceability. Due to the adoption of a dualist perspective, there may be instances where domestic legislation becomes inadequate in adequately safeguarding human rights. The effectiveness of the legal system in safeguarding human rights is contingent upon the government's inclination to establish domestic legislation that aligns with international norms in a given situation. The United States and other countries with dualist legal systems demonstrate a prudent stance towards treaty inclusion.

Diverse legal jurisdictions employ distinct methodologies to enact legislation. In order to guarantee the provision of remedies for victims of human rights violations, several nations exhibit a distinct dedication to upholding judicial decisions. In certain regions, it is possible that the local authorities exhibit a lack of cooperation or insufficient resources to effectively enforce court decisions.

Analogies seem inadequate in the context of legal equality. Certain legal systems implement comprehensive safeguards to provide equal access to justice for all individuals, especially those who are marginalized or in vulnerable

circumstances. Viable possibilities include the provision of legal advice, the provision of free legal counsel, and the simplification of the judicial system. When a nation's legal system lacks impartiality and inclusivity, it can provide challenges for individuals seeking justice in cases involving human rights violations.

The function of non-governmental organizations (NGOs) and civil society exhibits significant variation across different nations. Civil society organizations play a crucial role in safeguarding human rights and facilitating the pursuit of restitution for victims in numerous regions across the globe. They have the potential to assist the court system in safeguarding the rights of individuals. Civil society organizations face significant obstacles in their efforts to promote and safeguard human rights within governments where they encounter restrictions or outright bans.

The examination of extraterritorial operations that contravene international human rights norms is a potential avenue for comparative analysis. Numerous human rights accords impose restrictions on state conduct exclusively inside their respective territorial boundaries, so potentially rendering them inconsequential in the context of global affairs. Nevertheless, some legal entities have demonstrated their preparedness to investigate violations of human rights in other nations. The influence of judicial decisions in this domain exhibits significant variation across different jurisdictions.

Challenges and limitation

- Judicial decision-making on international human rights matters is essential to advancing and defending fundamental rights, but also has drawbacks. These problems jeopardize country legal systems' efficacy and uniformity in protecting human rights.
- International human rights law is complicated and evolving, making it hard to manage. A growing number of international agreements and treaties defend human rights. Complex laws, conflicting interpretations, and changing standards challenge the judiciary. This intricacy makes it hard to apply human rights ideas universally across legal systems.
- In circumstances of conflicting rights and interests, courts must achieve a balance. Human rights treaties safeguard individual rights while acknowledging governments' legitimate interests in public order and national security. When people's priorities differ, balancing personal freedoms and government aims can be difficult.
- Enforcement and compliance may weaken judicial judgements. Government officials and institutions may oppose human rights judgements, even if the courts agree. Court rulings may not be enforced due to a lack of money, people, or political will, leaving victims with little options.
- Another issue is legal access, especially for the poor and weak. These populations may struggle to use the legal system due to a lack of legal

representation, high prices, and possibly discrimination. Such impediments prevent human rights reparation and cause inconsistency in rights application.

- Judicial independence is essential for fair and just decisions. Political interference, threats, and pressure may affect judges' impartiality in some jurisdictions. It may chill authority figures from making unfavorable human rights judgements.
- Jurisdiction and extraterritorial human rights have restrictions. Human rights accords commonly govern states' domestic activity. Non-national risks to human rights include transnational crimes and international enterprises. It might be difficult to prosecute foreign human rights violators.
- Some people disagree with or reject international human rights judicial judgements because they don't support them. Political environment and government readiness to enforce judicial judgements can be affected by these discussions.

Findings

- The ratification of human rights agreements on a worldwide basis exerts a substantial impact on domestic legal systems. These accords serve as potent tools in the development of universally applicable rules and concepts aimed at safeguarding and advancing human rights. International accords frequently exert influence on domestic legislation, governmental policy, and judicial decisions.
- International human rights agreements have significant and measurable impacts on domestic legal systems, extending beyond their symbolic and aspirational value. Numerous nations incorporate international treaties into their domestic legal frameworks by means of constitutional provisions, legislative enactments, or judicial decisions. The integration of international human rights standards into domestic legislation renders these norms legally enforceable inside all domestic judicial systems.
- The significance of national courts in offering domestic interpretations of and ensuring adherence to international human rights agreements is also underscored. The judiciary plays a pivotal role in the resolution of conflicts that arise between domestic legal systems and international norms. These courts enhance the effectiveness of international human rights norms inside national jurisdictions by their analysis of treaty provisions, examination of the intent of the treaty drafters, and implementation of these principles in their rulings.
- This research finds out the diverse strategies employed by nations in the process of negotiating and implementing international human rights agreements. Certain nations adopt the perspective that international treaties inherently form an integral part of domestic law upon ratification, which is

commonly referred to as the "monist" approach. Conversely, other nations hold the belief that domestic law must undergo explicit modifications to render the treaty binding, known as the "dualist" approach. The kind of technique employed significantly influences the extent to which human rights agreements can be directly implemented inside domestic court systems.

- States consistently provide updates on their efforts to implement international human rights agreements to the respective treaty bodies. Given that international institutions rely on these reports to assess a country's compliance with its treaty obligations, these reports serve as mechanisms for transparency and accountability.
- To provide a comprehensive analysis of the extensive and diverse impacts those international human rights agreements exert on domestic legislation. Through the establishment of public reporting systems and their influence on the design of domestic laws and regulations, these entities foster transparency and responsibility. The intricate interaction between global and national legal frameworks underscores the significance of international human rights agreements as drivers for enhancing safeguards for human rights everywhere.

Conclusion

The impact of international human rights treaties on domestic legal systems plays a pivotal role in the protection and preservation of human rights on a global scale. The significance of these treaties lies in their establishment of fundamental principles for the global safeguarding of human rights. Various nations employ distinct techniques when it comes to the integration of treaties into their domestic legal systems, namely the monistic and dualism approaches. Consequently, this impedes the effective implementation of rights derived from international treaties inside domestic judicial systems.

State judiciaries play a crucial role in facilitating the alignment of international human rights standards with local law systems through the provision of legally enforceable interpretations and implementations. In addition, the reporting mechanisms implemented by the treaties facilitate enhanced levels of openness and accountability, as they enable external observers to evaluate a state's adherence to its treaty obligations. In an era characterized by growing interdependence among individuals, the significance of international treaties as crucial mechanisms for safeguarding human rights, attaining justice, and fostering a more equal global society persists.