

Impact of International Human Rights Norms on Indian Jurisprudence

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Abstract: *This article examines the symbiotic relationship between worldwide human rights instruments with evolution of Indian constitutionalism. Intellectual lineage of present discourse traces to Hugo Grotius, whose 17th-century treatises grounded legal thought in secular Natural Law. From the crucibles of the American and French Revolutions through the UDHR of 1948, this study traces the convergence of international norms with the Indian constitutional framework. The analysis centres on the 'Golden Triangle' of Articles 14, 19, and 21, read conjunctively with Article 51 and Article 253, arguing that the judiciary has bridged gaps in municipal law through international norms particularly on caste discrimination and human dignity. Through doctrinal analysis of Maneka Gandhi, Vishaka, NALSA and Bulldozer Justice Judgement, the article illustrates how the right to life has been expanded to encompass dignity as envisioned by international covenants. The study concludes that the 'globalization of rights' has transformed the Indian Constitution into a living instrument of universal conscience.*

Keywords: Golden Triangle, UDHR, Indian Jurisprudence, Caste Discrimination, Article 51, Constitutionalism.

I. INTRODUCTION

The proposition that every human being possesses inherent, inalienable rights independent of state sanction is a civilizational constant, not a post 1945 invention. The earliest recorded articulation appears on the Cyrus Cylinder of 539 BCE inscribed by Cyrus the Great upon conquering Babylon announcing the abolition of slavery, freedom of worship, and the right of exiled peoples to return their home. A replica stands at the United Nations Headquarters, formally recognising its foundational significance.¹

Hugo Grotius during 1625 provided the secular philosophical scaffolding for this intuition in his work 'De Jure Belli ac Pacis'² grounding Natural Law in human reason rather than divine decree. This Grotian tradition flowed into 1776 Independence Declaration of American, trailed by French Announcement of 1789 related to the Rights of Man and Citizen and ultimately eventually resulted into adopting 1948 UDHR; a continuum upon which India's Constitution-makers consciously drew, embedding its essence in the 'Golden Triangle' of Articles 14, 19, and 21, among the most internationally oriented fundamental rights provisions in the world.

¹Brosius M. (2006), The Persians: An introduction, Routledge, A replica of the Cyrus Cylinder stands in the United Nations Headquarters, formally recognising its foundational significance in human rights history.

²Grotius, H. (2012). On the Law of War and Peace (S. C. Neff, Ed.), Cambridge University Press, (Originally published 1625).



II. HISTORICAL BACKGROUND

Ancient Foundations and the Grotian Revolution:

The Cyrus Cylinder is the chronological starting point of any serious study of human rights. Darius-I codified the rule of law for all subject peoples through the 'Daiva Inscription'. Later, Artaxerxes-II maintained religious pluralism and minority protection across a multi-ethnic empire. Subsequent Achaemenid rulers reinforced this tradition. Recently British historian Kuhrt during 1983 notes that it reflects a philosophy of tolerant, non-coercive governance premised on the idea that legitimate authority carries obligations toward the governed.³ German scholar Josef in 1996 characterizes this as 'proto-human rights' an institutional recognition, which was maintained by Grotius two millennia before that power must justify itself to the dignity of those it governs.⁴

It was Hugo Grotius who systematically freed rights theory from theology. His central thesis 'etiamsi daremus Deum non esse' (to mean 'Even if God does not exist') grounded a natural law in human reason and social nature rather than divine decree.⁵ In 1946 a British lawyer Hersch Lauterpacht, identifies this as the direct intellectual ancestor of modern international human rights law. Lastly, Grotius was of the opinion that individuals, not merely states, have standing under the law of nations. It is this core principle that establishes as foundation to articulate Article 21 into the Indian Constitution.⁶ Emer Vattel building upon this scaffolding, conditioned sovereign legitimacy upon observance of universal norms of justice, directly prefiguring the post-1945 human rights architecture.⁷

Revolutionary Codification:

1776 Declaration of Independence of America translated Grotian rights into political doctrine, yet the constitutional settlement of 1787 preserved slavery a contradiction resolved only by the Civil War followed by 13th, 14th, and 15th Amendments. Dr. B.R. Ambedkar, master drafter of the Indian Constitution, studied at Columbia University and drew upon the 14th Amendment's equal protection clause in constructing Articles 14 and 17.⁸

Both American slavery and Indian untouchability functioned as systems of inherited status and social exclusion. Ambedkar's Annihilation of Caste written in 1936 articulated caste base atrocity as inhuman treatment.⁹ Later, ICERD internationally codify a 'descent-based discrimination' being finding its most concrete domestic expression used in legislation of 1989 related to caste atrocities. Thus, global enactment of 1948 directly influenced basic rights and foundational principles enumerated under the Constitution.¹⁰

III. INTERNATIONAL PERSPECTIVES

The domestication of international human rights norms follows divergent constitutional models. The United States requires treaty ratification and implementing legislation, with the self-executing treaty doctrine narrowly construed. Post-apartheid Constitution of South Africa articulated section 39 providing most expansive reception clause,

³Kuhrt, A. (1983). The Cyrus Cylinder and Achaemenid imperial policy. *Journal for the Study of the Old Testament*, 8(25), 83–97.

⁴Wiesehöfer, J. (1996). *Ancient Persia: From 550 BC to 650 AD*. I. B. Tauris.

⁵ Grotius, H. (2012). *On the Law of War and Peace* (S. C. Neff, Ed.), Cambridge University Press, (Ori. published 1625).

⁶Lauterpacht, H. (1946). The Grotian tradition in international law. *British Yearbook of International Law*, 23, 1–53.

⁷Vattel, E. de. (1758). *The law of nations* (Trans. C. G. Fenwick, 1916). Carnegie Institution. Vattel extended the Grotian tradition by positing that states, like individuals, are governed by natural law in their mutual relations, prefiguring the post-1945 human rights architecture.

⁸Austin, G. (1966). *The Indian Constitution: Cornerstone of a nation*. Oxford University Press.

⁹Ambedkar, B. R. (1936). *Annihilation of caste*. Thacker & Co. Ambedkar's comparative analysis of caste and racial discrimination directly informed his constitutional draftsmanship of Articles 14, 15, 16, and 17.

¹⁰Henkin, L. (1990). *The age of rights*. Columbia University Press.



warranting the courts to honour intercontinental law while understanding the Bill of Rights and further consider global law as a comparative guide. The United Kingdom, post-Human Rights Act 1998, applies the ECHR as enforceable domestic law, though Parliamentary sovereignty formally precludes striking down primary legislation.

France, under Article 55 of the 1958 Constitution, renders ratified international treaties superior to ordinary domestic legislation. Australia maintains formal dualism but incrementally incorporates customary international law through judicial creativity. Japanese Constitutional mechanism emphasises for pragmatic approach to establish global treaties while facilitating direct application. China domesticates international norms selectively through legislative enactment rather than judicial incorporation. India's judicially fashioned 'creeping monism' not textually mandated but functionally achieved represents a constitutionally significant, globally convergent trend toward the judicial domestication of international human rights standards even absent explicit legislative instruction.

IV. CONSTITUTIONAL AND LEGISLATIVE PROVISIONS

The constitutional architecture for receiving international norms is multi-layered.¹¹ Articles 14–30 guarantee fundamental rights; Article 51 command respect for global law and covenant obligations; Article 253 solely supplement Indian Parliament with power to endeavour global treaties. Apart from Constitutional provisions there exist pre-independence statutory regime which paved way for the Parliament to enact legislations linking its alignment with global human right norms. Some of the core and important legislations includes Civil Rights Act of 1955, Prevention of Atrocities to SC and ST Act, 1989, Human Rights Act of 1993 and Protection from Social Boycott Act of 2016 enacted by the State of Maharashtra.

V. JUDICIAL PRECEDENTS

The Indian Supreme Court has been the primary engine for translating global human rights norms into enforceable constitutional rights. Drawing upon a Dworkinian conception of rights as non-derogable constraints upon legislative power,¹² the Court has progressively used Articles 14, 19, and 21 as conduits through which globally recognised covenants like ICCPR, ICESCR, CEDAW and Yogyakarta Principles enter and reshape domestic constitutional law. Some of revolutionary precedents which cemented human right jurisprudence into Indian Republic includes *Maneka Gandhi v. Union of India* (1978)¹³ which established that the Golden Triangle operates as an integrated unit; any restriction on personal liberty must satisfy Articles 14, 19, and 21 simultaneously. By reading ICCPR-aligned due process into Article 21, the Court effected India's foundational convergence with international civil and political rights standards. Later, Apex Court through *Francis Coralie Mullin v. Union Territory of Delhi*¹⁴ extended Article 21 to encompass human dignity adequate nutrition, shelter and self-expression transplanting the ICESCR's adequate standard of living directly into domestic constitutional law. In the further development Supreme Court in *Gramophone Co. of*

¹¹Basu, D. D. (2018). *Introduction to the Constitution of India* (23rd ed.). LexisNexis.

¹²Dworkin, R. (1977). *Taking rights seriously*. Harvard University Press. Dworkin's conception of rights as 'trumps' against majoritarian legislation underpins the Indian Supreme Court's treatment of fundamental rights as non-derogable constraints on legislative power.

¹³*Maneka Gandhi v. Union of India*, AIR 1978 SC 597. The Court held that Articles 14, 19, and 21 form an integrated unit; any law curtailing personal liberty must satisfy all three simultaneously.

¹⁴*Francis Coralie Mullin v. Union Territory of Delhi*, AIR 1981 SC 746. The Court held that Article 21 encompasses the right to live with basic human dignity, including adequate nutrition, clothing, shelter, and facilities for reading, writing, and self-expression.



India Ltd. v. Birendra Bahadur Pandey¹⁵ pronounced India's modified dualist position thereby customary international law is automatically incorporated into municipal law; treaty law paving way for legislative transformation in India. In 1997 while dealing with woman dignity issue in Vishaka v. State of Rajasthan,¹⁶ Apex Court of India recognises CEDAW principles as fundamental rights in vacuum of municipal legislation on institutional sexual atrocity against women. In 2014 while dealing with gender equality issue in NALSA v. Union of India¹⁷ Apex Court availed 'Yogyakarta Principles' as soft law instruments without binding treaty status to extend Articles 14 and 21 to transgender persons, holding that gender identity is integral to dignity. This judgment demonstrates the Court's willingness to deploy non-binding international standards as constitutional interpretive guides. Recently Apex Court once again through its Bulldozer Justice Judgement¹⁸ again align Indian municipal law with to that of global human rights standards alike Article 10 of UDHR, Article 14 of ICCPR and Article 11 of ICESCR. Grounding its jurisdiction in Articles 51(c) and 253, the Indian Courts issued binding guidelines while dealing with the most unambiguous instance of judicial treaty implementation in Indian legal history.

VI. CONCLUSION

The arc of human rights law bends from a Babylonian clay cylinder to the Supreme Court of India. The civilizational continuity is neither coincidental nor rhetorical: it reflects the enduring intuition that power must justify itself to the dignity of those it governs. When Cyrus the Great inscribed his decrees in 539 BCE, he articulated a principle that Grotius would theorize, Jefferson would invoke, the UDHR would enshrine, and India's Constitution-makers would embed in the Golden Triangle.

Through Maneka Gandhi, Vishaka, and NALSA, the Supreme Court has progressively dissolved the formal dualist boundary, creating a jurisprudence of 'creeping monism' where the ICCPR, CEDAW, and the Yogyakarta Principles function as living components of Articles 14 and 21.¹⁹ The basic structure doctrine, articulated in Kesavananda Bharati v. Union of India,²⁰ is the Grotian 'etiamsi daremus' principle translated into constitutional architecture to mean that a higher law rooted in human dignity which no sovereign may violate.

This judicial trajectory has not been without tension. The formal dualist framework embedded in the constitutional text the absence of a direct incorporation clause, the requirement of Parliamentary implementation under Article 253 creates an institutional friction that the Court has resolved pragmatically rather than doctrinally. The result is a jurisprudence that is functionally monist in outcome while remaining textually dualist in form. This creative ambiguity has served India well. It preserves Parliamentary sovereignty in principle while enabling the judiciary to express its view on evolving global rights related to mankind and standards of practice. Future task is to translate judicial improvisation into a settled constitutional doctrine through appropriate legislative and judicial instruments.

¹⁵Gramophone Co. of India Ltd. v. Birendra Bahadur Pandey, AIR 1984 SC 667. The Court articulated India's modified dualist position: customary international law is automatically incorporated into domestic law to the extent it does not conflict with Parliamentary enactment.

¹⁶Vishaka v. State of Rajasthan, AIR 1997 SC 3011. The Court held CEDAW directly enforceable in the absence of municipal law, issuing binding workplace sexual harassment guidelines as an exercise of Article 32 jurisdiction.

¹⁷National Legal Services Authority (NALSA) v. Union of India, AIR 2014 SC 1863. The Court applied the Yogyakarta Principles to extend Articles 14, 15, 19, and 21 to transgender persons, holding that gender identity is integral to the right to dignity.

¹⁸In Re: Directions in the matter of demolition of structures, 2024 INSC 866

¹⁹Baxi, U. (2002). The future of human rights. Oxford University Press. Baxi argues that the 'globalization of rights' is a two-way process: international norms shape domestic constitutions, while domestic judicial creativity reshapes universal standards.

²⁰Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461. The thirteen-judge Constitution Bench held that Parliament's amending power cannot destroy the essential features of the Constitution, including fundamental rights.



The comparison of American slavery and Indian untouchability confirms that constitutional text is necessary but not sufficient: dismantling entrenched exclusion required international moral pressure, domestic mobilization, and judicial creativity working in concert. India's Atrocity Legislation, inspired by ICERD's descent-based discrimination framework, exemplifies how transnational norms supply the normative vocabulary for domestic legislative reform.²¹ The Golden Triangle remains the essential gatekeeper but only as strong as the institutional will to enforce it, ensuring Indian jurisprudence remains, as its founders intended, both universally humane and uniquely Indian.

VI. SUGGESTIONS

India should endorse dormant covenants related to globally recognised rights of mankind. Parliament should focus on mechanism to introduce Elective Protocols to the ICCPR and ICESCR. A Constitution Bench ruling formally articulating 'creeping monism' as constitutional ethos is overdue. Additionally, government should focus on enhancing financial and investigative independence of Commissions related to human rights. Further, Law school curricula must integrate human rights law as a compulsory core subject, equipping the next generation of Indian advocates to deploy international norms as effective litigation tools.

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²¹State of Karnataka v. Appa Balu Ingale, AIR 1993 SC 1126. The Court held that untouchability in any form violates fundamental rights and that the SC/ST (Prevention of Atrocities) Act, 1989 must be strictly enforced as a constitutional mandate. See also Lauterpacht, H. (1950). *International law and human rights*. Stevens & Sons.



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