CHAPTER – I

INTRODUCTION

1.1 Meaning and Significance of Human Rights:

“Human Rights”¹ is a 20th century name for “natural rights”² or rights of man. They are inherent in every human and are essential for attainment of dignified life without which one can not live like human. Human rights are universal and inalienable; indivisible; interdependent and interrelated. They are universal because everyone is born with and possesses the same rights, regardless of where they live, their gender or race, or their religious, cultural or ethnic background. Inalienable because they are not subject of alienation i.e., human rights can never be sold, gifted or taken away. Indivisible and interdependent because all rights – political, civil, social, cultural and economic – are equal in importance and none can be fully enjoyed without the others. They apply to all equally, and all have the right to participate in decisions that affect their lives. They are upheld by the rule of law and strengthened through legitimate claims for duty-bearers to be accountable to international standards.³

Human rights are as old as human society itself, for they derive from every person’s need to realize his or her essential humanity. They are neither ephemeral nor

² Natural Law played a pivotal role in the formative age of human rights. It rooted these rights in the individual membership of a common humanity and made their existence independent of the legal and moral practices of different communities. Locke and Rousseau articulated these rights in the form of natural rights. John Locke believed that human rights, not governments, came first in the natural order of things. John Locke observed; “If man in the ‘State of Nature’ be so free, as has been said; if he be absolute lord of his own person and possessions equal to the greatest and subject to no body, why will he part with his freedom? Why will he give up this empire, and subject himself to the dominion and control of any other power? To which it is obvious to answer, that though in the state of nature, he has such a right, yet the enjoyment of it is very uncertain and constantly exposed to the invasion of others. For all beings King as much as he, every man is equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very insecure. This makes him willing to quit a condition, which however free, is full of fears and continual dangers; And this not without reason, that he seeks out, and is willing to join in society with others who are already united, or have a mind to unite for the mutual preservation of their lives, liberties and estates.” See John Locke, “Two Treatises of Government”, 3rd ed. 1698, edited by Laslet, 1963, p.395, cited in Mark W. James, “An Introduction to International Law”, 1993, Pp.241-42, cited in B.C. Nirmal, “Ancient Indian Perspective of Human Rights and its Relevance”, JJIL, Vol. 43, 2003 at 450.
alterable with time or place or circumstance. They are not the products of philosophical whim or political fashion. They have their origin in the fact of the human condition and because of his origin they are fundamental and inalienable. More specifically, Constitutions, Conventions or Governments do not confer human rights, but are merely instruments and testaments of their recognition. They are important, sometimes essential, elements of the machinery for the protection and enforcement of human rights but they do not give rise to human rights. Human rights were born not of humans but with humans.4

Human rights ideology postulates human dignity and recognition that every human being, irrespective of race, religion, colour, or circumstances, is born equal and entitled to the rights as a human being. Far from being mere legal abstractions or moral exhortations, they are dynamic, political, social, economic, judicial as well as moral and include cultural and philosophical conditions which define the intrinsic value of man and his inherent dignity.5

Whatever may be the normative or philosophical claims behind the notion of “Human Rights”, what matters is the recognition and protection of “human Rights” in law as the human society is governed by law today. Thus “right” is defined as an interest recognized and protected by law.6 The term “right” when qualified by the term “human” –human Right- makes no difference to the understanding of the term “right”. According to B. G. Ramcharan, human rights are legal rights which possess one or more of the following characteristics: appurtenance to the human person, group or universality, essentiality to human life, security, survival, dignity, liberty, equality, essentiality for international legal order, essentiality in the conscience of mankind, essentiality for the protection of vulnerable groups.7

1.2 International Human Rights Law: The Emergence of Individual as a Subject of International Law:

Traditionally, International Law was considered a concern of States in which human rights had no place. But the atrocities and brutality perpetrated on humans and the enormous loss of life during the Second World War alarmed the international community that the Third World War would bring an end to the entire human race from this earth. Thus by the end of Second World War, it was realized that international law was no longer the exclusive concern of States and that individual human beings are the centre piece of realization of human rights. The metamorphosis from the mere relationship between sovereign States to treatment of individuals soon occurred. It was realized that the objective of all the functions of the United Nations and its activities is the well being of individual men and women.

As the contemporary human society steps into the 21st century the medieval constraints of sovereignty over the individuals of this civilization are gradually loosening making for oneness of the human community and elevating human rights to the level of a common international concern. Notwithstanding the arguments of domestic compulsions, barriers of municipal laws and internal affairs, advanced by member States of the United Nations Organization (U.N.O.) in coping with human rights issues, the international community has invariably transcended domestic compulsions in constituting the normative regime of human rights. This regime of human rights has drawn its legitimacy from a number of arrangements like the customary and general international laws, Charter of the U.N.O., Jus Cogens, multilateral treaties, Covenants and commonly accepted human rights instruments, compounded by the informed State practices and values of the contemporary civilizations.

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8 Death toll in Second World War is estimated to be of 62 to 78 million, and left millions disabled making it the deadliest war in world history. See http://en.wikipedia.org/wiki/World_War_II_casualties Visited on 25-11-2011 at 6.45 pm.
9 The Preamble of the Charter of UN records the reason for the protection of human rights in these words: “WE THE PEOPLES OF THE UNITED NATIONS DETERMINED to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and…”
1.3 Individuals as subject of International Law:

Whilst the States remain the principal actors in International Law, the individual has also emerged as complementary subject by abdicating its classical role as inert object of International Law. There has been a shift in the domain of comity of nations, which has a positive bearing on human rights protection. The United Nations has defined its responsibility in the protection of the individuals.\(^{12}\)

The Charter of U.N.O.\(^{13}\), the Universal Declaration of Human Rights, 1948 and the judgments of Nuremberg\(^{14}\) and Tokyo Trials, the post-second world war treaties and Covenants on human rights have conferred rights and imposed obligations on the individuals.\(^{15}\) Now, individuals can present claims in the field of human rights against States including their own.\(^{16}\) The creation of International Criminal Court under the Rome Statute, 1998,\(^{17}\) recognition of legal personality of indigenous people and the numerous Conventions concluded under the International Labour Organization addressing the interests of working class have influenced the status of an individual under the contemporary International Law from mere object to subject of International Law.

\(^{12}\) Preamble, Article 1, 55 and 56 of Charter of U.N.O.
\(^{13}\) The Charter of the United Nations was signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization, and came into force on 24 October 1945. The Preamble reaﬃrms the faith in fundamental human rights, Article 1 stresses international co-operation “in promoting and encouraging respect for human rights”, Article 55 emphasizes that U.N.O. must promote universal respect for and observance of human rights and fundamental freedoms, and under Article 56 member States pledge themselves to act jointly and separately for the achievement of these purposes.
\(^{14}\) According to the Nuremberg Tribunal: “Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced”. The Tribunal also pointed out that it has long been recognized that international law imposes duties liabilities upon individuals as well as States. Thus the Tribunal established the principle of individual criminal accountability for all who commit such acts as a cornerstone of international criminal law. See I.A. Shearer, “Starke’s International Law”, 11\(^{th}\) Ed. Oxford University Press, Oxford, 2009, p. 55.
\(^{15}\) There are more than 100 Universal and Regional arrangements on the protection of human rights. For a list of international Conventions, Principles, Declarations-see official website of Office of the United Nations High Commissioner for Human Rights- http://www2.ohchr.org/english/law/
\(^{16}\) For example the Optional Protocols to the ICCPR.
\(^{17}\) The Rome Statute of the International Criminal Court (often referred to as the International Criminal Court Statute or the Rome Statute) is the treaty that established the International Criminal Court (ICC). It was adopted at a diplomatic conference in Rome on 17 July 1998 and it entered into force on 1 July 2002. As of 1\(^{st}\) May 2012, 121 States are party to the Statute. The ICC can only investigate and prosecute the core international crimes (genocide, crimes against humanity, war crimes and the crime of aggression) in situations where states are unable or unwilling to do so themselves.
1.4 What is International Human Rights Law?

International Human Rights Law consists of customary as well as treaty rules that recognize and guarantee the human rights. An International Treaty on Human Rights is a legal instrument concluded between States, providing standards of conduct for governments to fulfill, and spelling out the State’s mandate for protecting human rights. It is called by various names like, Conventions, Covenants, Pact, etc. A majority of International Treaties on Human Rights emerge from many months and years of negotiations under the auspices of U.N.O. They are binding in nature among those States that consent to be bound by the same.


The catalogue of human rights under ICCPR broadly referred to the inherent right to life and liberty and the right against arbitrary deprivation of those rights and its various aspects (Articles 6 to 14); privacy, family, etc. (Article 17); freedom of conscience and religion (Article 18); freedom of expression and information (Article

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18 Today, International Human Rights Law mainly consists in the form of treaties (Conventions and Covenants). The substantial body of treaty law on human rights concluded under the auspices of U.N.O. leaves no room for the use of customary law on human rights. The fact that human rights treaties are adopted by the UN General Assembly and most of the States have ratified/acceded to them, any reference to the customary law on human rights would be unacceptable since treaties/conventions are the first source of International Law under Article 38 of the Statute of International Court of Justice.

19 A treaty is different from Declaration which suggests certain standards; a Declaration is non-binding and non mandatory in nature. For example, Universal Declaration of Human Rights, 1948 (UDHR). However, it is argued that UDHR has become part of Customary Rules of International Law because of its universal acceptance (most of the States Constitutions have adopted UDHR). But the fact remains is that UDHR being merely a Declaration can not be enforced legally. Further, the content of UDHR has taken the shape of Conventions in 1966 when ICCPR and ICESCR were adopted by the UN General Assembly. Both came into force in 1976. See Appendix - Table 1 for a list of major International Convention on Human Rights.
19); Right of peaceful assembly (Article 21); freedom of association (Article 22); rights of minorities (Article 27); etc. The ICESCR broadly referred to the “right to work” and its various aspects (Articles 6 and 7); right to form trade unions for promotion of economic or social interests and the right to strike (Article 8); right to social security and social insurance (Article 9); family, marriage, children and mothers’ rights (Article 10); adequate standard of living, right to food, clothing and housing, freedom from hunger (Article 11); physical and mental health (Article 12); education (Article 13); compulsory primary education (Article 14) and culture (Article 15).

The other seven core human rights treaties address issue based/group based rights that are more or less similar to the above referred rights under ICCPR and ICESCR. The obligations under these treaties enjoined the State Parties to ensure these rights without discrimination and “to take steps” to promote them “to the maximum of its available resources”, with a view to achieving “progressively” the full realization of these rights through legislative, administrative and judicial measures.

Further, additional Optional Protocols (OP) to these Conventions/Covenants have also been adopted to address specific concerns and also to strengthen the content of the Convention concerned. For example, the First OP to the ICCPR (OP1-ICCPR) provides for individual complaint mechanism making it enforceable even at the international level.

**1.5 Duties and Responsibilities of Individuals:**

Rights and duties are correlative. If there are rights, corresponding duties bound to exist. The international human rights law largely deals with rights of individuals and corresponding duties of the States. The philosophy behind this is that States are more powerful, and that conversely, individuals are vulnerable to violation of their rights. However, it is not that international human rights law does not address duties of individuals, the Preamble to the ICCPR and ICESCR refer to the duties of individuals to other individuals and the community they belong to.\(^\text{20}\) However, at the

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\(^{20}\) The Preamble to the ICCPR and ICESCR states that “Realizing that the individual, having duties to other individuals and to the community to which he belongs to, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant”. It is also pertinent to note here that Article 51-A of the Constitution of India refers to the “Fundamental Duties” of citizen of India.
same time, it is important to keep in mind the fact that there is a very clear and imminent danger that the notion of duties and responsibilities to the community may be used as a pretext by governments to violate/undermine/restrict human rights of individuals.\textsuperscript{21}

1.6 Nature of States Parties Obligations under International Human Rights Conventions:

In the international human rights Conventions, the States Parties obligation is generally expressed as one to “respect”, “recognize”, “ensure”, “secure” or “give effect to” the rights and freedoms defined therein by taking “appropriate measures” including “legislative, administrative or judicial” to give effect to the Convention rights. Each State party is duty bound to submit its “Report”, indicating the measures taken to implement Convention rights before the respective treaty bodies.

This makes international law of human rights substantially different from traditional international law. For instance, when a State party ratifies or accedes to a human rights treaty, it neither acquires rights nor incurs obligations in relation to other State parties. What it does is to make a solemn and binding commitment to respect and to ensure the rights recognized in that treaty to all individuals within its territory and subject to its jurisdiction. These individuals are the sole beneficiaries under that treaty. \textit{The obligation that is undertaken by the State is one which has to be performed, in accordance with its own Constitutional processes, within its own territory and in relation to its own people.}\textsuperscript{22}

1.7 Enforcement of International Human Rights Conventions at the International Level:

The effectiveness of any law/legal system depends on its powers to enforce the laws and norms that originate from it. The law relating to international human rights is no different. However the manner in which international human rights Conventions are enforced is different from the manner in which domestic laws are enforced. Further, international human rights law is that body of norms where States agree to guarantee human rights to people residing in their territory without receiving any


benefit whatsoever under the Conventions. There is no international police force to monitor State’s compliance with the obligations they have accepted under the various human rights Conventions. The issue of international enforcement is controversial and highly resisted by many States on the premise that human rights issues are essentially one of domestic concern and fall within the domestic jurisdiction.23

The scheme envisaged for supervision and enforcement of human rights under the nine core UN human rights Conventions are 1) Reporting, 2) Inter-State Communication, 3) Inquiries 4) Individual Communication. Each Convention has its own Committee to enforce the Convention rights. Except “Reporting” the other schemes are optional for the State parties. Most of the States have not accepted the Inter-State Communication system, because of the reason that complaining against a State for violation of Convention rights would affect their bilateral relations. Inquiries could be initiated only when State Party agrees for the same which is rare. Further, individual complaint mechanism could be pressed only when all local remedies are exhausted.24

Thus, “Reporting” is the only mechanism available for the Committee-treaty body- to ensure State’s compliance of Convention obligation. States do submit periodic “Reports” indicating the measures that they have taken to implement Convention rights. On perusal of the Reports, the Committee makes recommendations. What is important to note is that States never question the binding nature of Convention obligations, rather they express difficulties in implementing the Convention rights because of social, cultural and economic conditions or substantiate that their legal system is more or less complies with Convention obligations.

In fact domestic implementation is the primary mechanism envisaged under the nine core human rights treaties to give effect to the rights they enshrine while international implementation i.e., Reporting system, Inquiries, Inter-State and

23 Article 2(7) of the Charter of U.N.O.
24 For example Article 2 of Optional Protocol to ICCPR, 1966 - “Subject to the provisions of Article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration”. Article 1 stipulates that no complaint shall be received against a State which is not party to the Optional Protocol to ICCPR.
Individual Complaint system is set up as a secondary means of implementation providing for a control system.\textsuperscript{25}

1.8 Domestic Enforcement of International Human Rights Law:

Domestication or incorporation of international human rights law within the State’s legal system has always been subject of great debate. When we look at the philosophy of international human rights treaties, undisputedly it mandates States parties to undertake necessary measures, including the legislative, administrative and judicial, to implement treaty rights in accordance with their Constitutional process.\textsuperscript{26} If the State party incorporates the Convention rights within its legal system by enacting a suitable legislation, then there is no problem- it is for the domestic courts to interpret and apply the municipal law that incorporated the Convention rights. However, the problem would arise when the State Party fails to incorporate the Convention rights within its legal system by enacting a law or fails to take necessary administrative measures. The most crucial issue then would be, whether the domestic courts can apply and enforce Convention rights in the absence of domestic legislation incorporating the Convention rights?, or direct the executive to initiate administrative measures?, or declare an action of the executive ultra virus of human rights Convention? The Answer to these questions depends upon the constitutional provisions of State party that determine the legal status of international law within the legal system of a State or in the absence of such a provision in the State’s Constitution, the practice of State party in this regard.

It is in this context that domestication of international human rights law assumes lot of importance. Because that is the only effective way and of course the object of human rights Conventions that human rights recognized therein could be better protected and enforced. Need less to say human rights violations take place within the State and only the domestic bodies (courts/tribunals/commissions) are best suited to deal with such situations and not international bodies who are far away from the actual scene of violation.

\textsuperscript{26} For example Article 2 (2) says that- “Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.” (Emphasis supplied)
1.9 Bangalore Principles on the Domestic Application of International Human Rights Norms:

The traditional approach of the common law, that international law cannot be enforced at the domestic level unless it is incorporated by an enabling legislation has been a stumbling block for the Courts in common law countries to apply and enforce the rights guaranteed under international human rights treaties. However, as a result of adoption of International Bill of Rights (UDHR, ICESCR & ICCPR) and other Conventions aiming to protect vulnerable groups (CEDAW, CRC etc.) and their mandate for the domestication of the rights stated therein and frequent references to treaty rights before the domestic courts paved the way for Judicial Colloquium on the use of international human rights treaties by the domestic courts. The First Judicial Colloquium on the Domestic Application of International Human Rights Norms, held at Bangalore, 1988, which was jointly organized by the INTERIGHTS and Commonwealth Secretariat. The General Principles adopted at the Bangalore Colloquia are called as Bangalore Principles. Further a series of such Judicial Colloquiums were held in other countries building the Bangalore Principles.

Relevantly, the Bangalore Principles state, in effect: (1) International law (whether human rights norms or otherwise) is not, as such, part of domestic law in most common law countries; (2) Such law does not become part of domestic law until Parliament so enacts or the judges (as another source of law-making) declare now the norms thereby established are part of domestic law; (3) The judges will not do so automatically, simply because the norm is part of international law or is mentioned in a treaty - even one ratified by their own country; (4) But if an issue of uncertainty arises (as by a lacuna in the common law, obscurity in its meaning or ambiguity in a relevant statute), a judge may seek guidance in the general principles of international law, as accepted by the community of nations; and (5) From this source material, the judge may ascertain and declare what the relevant rule of domestic law is. It is the action of the judge, incorporating the rule into domestic law, which then makes it part of domestic law.27

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In terms, the *Bangalore Principles* declare: “There is a growing tendency for national courts to have regard to these international norms for the purpose of deciding cases where the domestic law - whether constitutional, statute or common law - is uncertain or incomplete. It is within the proper nature of the judicial process and well-established judicial functions for national courts to have regard to international obligations which a country undertakes - whether or not they have been incorporated into domestic law - for the purpose of removing ambiguity or uncertainty from national constitutions, legislation or common law”.28

1.10 The Status of International Law under the Constitution of India:

Articles 51(c), 73, 253, 372 and Entries 10 to 14 of List-I in VII Schedule reflect the position of International Law in India.

Article 51(c), which finds place in Part-IV, is basically a non-justiciable provision, which merely casts a direction to the State29 to foster respect for international law and treaty obligations. Curiously, it makes a distinction between international law and treaty obligations without defining them. Article 73 states that executive power of the Union shall extend to the matters with respect to which Parliament has power to make laws. Article 253 which finds place in Part XI (Relations between the Union and the States)-Chapter 1 (Legislative Relations), provides that Parliament has power to make laws for implementing any treaty, agreement or convention. Article 372 deals with the status of laws in force prior to the coming in to force of Constitution and their continuance until altered, repealed, or amended, thereby meaning that the British practice of customary rules of international law will continue to operate (deemed to be part of the law of the land) . Entry 10 deals with foreign affairs, 11 deals with diplomatic, consular and trade representation, 12 deals with United Nations Organisation, 13 deals with participation in international conferences, associations and other bodies and implementing of decisions made thereat, 14 deals with the subject of entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions.

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28 Principle 4.
29 The term State is defined under Article 12 of the Constitution which reads as: Definition- In this Part, unless the context otherwise requires, “the State” includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.
Thus as per Entry 14 of Union List read with Article 246, the Constitution leaves it to the Parliament to enact a law as to who has to enter into an international treaty, agreement or Convention and how it has to be implemented. Till date Parliament has not enacted any law on this subject. The absence of law on this subject paved the way for the Union Executive to exercise its power under Article 73 and thereby enters into international treaties, agreements and Conventions and implements the same.

However the power to enter into and implement international treaties etc. is subject to the provisions of the Constitution as Article 73 begins with the clause “subject to the provisions of this Constitution”. It means that, wherever it is provided in the provisions of the Constitution that “Parliament by law” or “State may by law”, the Union Executive cannot implement international treaty etc., if the subject of the treaty is one that falls within the prerogative of the Parliament i.e., “Parliament by law” or “State may by law”. Further, Article 253 is an exception to the legislative competence of the State Legislatures meaning it is only the Parliament that has exclusive power to enact law to implement international treaties even though the subject of the treaty falls within the Concurrent List or State List.

What emerges from the above is that entering into Treaties/Conventions is an Executive act and the President of India who is the head of Executive ratifies International Treaties. Thus it is the head of the State assures to the International Community of ensuring protection of rights guaranteed under International Human Rights Treaty. Further no Parliamentary consent is required to ratify an International Treaty in India and this has led to the problem of domestic implementation of international human rights treaties in India. Moreover, the scheme of distribution of functions (separation of power) between the three organs of the State –Legislature, Executive and Judiciary- envisaged under the Constitution makes it abundantly clear that it is the Parliament and State Legislatures who can alone make laws, Executive implement and Courts interpret them.

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31 Ibid
Thus, it is clear that under the scheme of the Constitution, international law/human rights treaty is not directly enforceable though the State is under constitutional directive (Article 51(c)) to respect the same.

1.11 Need for the Study:

1. Inadequacy of Rights under Part III of the Constitution:

Part III of the Constitution guarantees fundamental rights against State action. A bare perusal of list of fundamental rights\(^{32}\) shows inadequacy of rights guaranteed under it. The expansion of list of fundamental rights by the Supreme Court in the last 62 years stands testimony to the inadequacy of rights enlisted under Part III.\(^{33}\) On the other hand the Parliament whose prerogative is to make laws has cut short one fundamental right from the list i.e., right to property.\(^{34}\) The right to education, which ought to have been enlisted under part-III, found place under Part-IV till 86\(^{th}\) Amendment, 2002, which placed it under Part-III as Art. 21A. Moreover Part-III can be enforced only through Supreme Court and High Courts under Articles 32 & 226 of the Constitution respectively.

Part-IV reflects those important rights, which India has pledged to provide to its people that are similar to the rights enshrined under ICESCR. However, Part-IV is not justiciable unlike Part-III.

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\(^{32}\) Right to Equality (Art.14 to 18), Right to Freedoms (Art.19 to 22), Right against Exploitation (Art.23&24), Right to Religion (Art.25 to 28), Cultural and Educational Rights (Art.29&30), Right to Constitutional Remedy (Art.32).


\(^{34}\) Right to property was guaranteed under Article 19 (f) and was omitted by the Constitution (44\(^{th}\) Amendment) Act, 1978. Now it is a constitutional right under Article 300A.
2. The content of International Human Rights Treaties provides Greater Protection than Part III of the Constitution.

The catalogue of human rights provided under the international human rights treaties display wide range of human rights that reflect universal and inalienable; indivisible; interdependent and interrelated. Though not absolute but derogation is permitted under exceptional circumstances that too for the public order and national security. No discrimination whatsoever on any ground is permissible. It is in this context that international human rights treaties are sacred and are intended for the benefit of the mankind.

On the other hand, when compared to the list of human rights standards under the international treaties, the catalogue of human rights enshrined under Part III of the Constitution of India is restrictive and do not afford the level of protection guaranteed under international human rights treaties. It is for this reason that the National Commission to Review the Working of the Constitution (NCRWC) in its Report\textsuperscript{35} at Chapter-3 titled “Enlargement of Fundamental Rights” suggested various amendments to Part-III of the Constitution so as to bring it in conformity with ICCPR.


The definition of Human Right under the Protection of Human Rights Act, 1993\textsuperscript{36} (1993 Act) is very narrow as it relates Human Rights only to life, liberty, equality and dignity guaranteed under the Constitution and in the International Conventions enforceable by courts in India\textsuperscript{37}. Needles to say human rights encompass rights associated with human beings beyond these four rights. Further section 2(f) defines the word “International Convention” meaning ICCPR and ICESCR and such other Covenant or Convention adopted by the General Assembly of the United Nations as the Central Government may, by notification, specify. India is a Party to many International Conventions on human rights including the six out of nine UN core human rights treaties and number International Labour Organization (ILO)

\textsuperscript{35} Final Report available at www.lawmin.nic.in/ncrwc/finalreport.htm. Visited on 16-05-2012 at 05-00 p.m.
\textsuperscript{36} The nomenclature gives many a wrong impression that India has a specific law on Human Rights. It defines “Human Rights” and establishes National Human Rights Commission (N.H.R.C.) and provides for the establishment of State Human Rights Commissions (S.H.R.C.) and District Human Rights Courts.
Conventions. However, till date the Central Government has not notified any other Covenant or Convention under section 2(f) of the 1993 Act.

The second part of the definition on “Human Right” is crucial one, that is, “International Covenants enforceable by courts in India”. By saying this, the Parliament has abdicated its responsibility of domesticating the international human rights treaties by enacting suitable legislation and shouldered this responsibility on courts. Now, the issue that arises is, when International Conventions on Human Rights become enforceable by courts in India? Given the philosophy of Indian Constitution on the status of International Law in India the courts in India have held that, unless and until an enabling legislation is passed by the Parliament, International Human Rights Conventions cannot be enforced including ICCPR and ICESCR. Thus the naming of ICCPR and ICESCR or any other Covenant in future under section 2(f) is not helpful as long as the limitation under section 2(d) i.e., “International Covenants enforceable by courts in India” continue to operate.


India being a founder member of the UNO and Party to several International Human Rights Conventions including six of the UN Nine Core Human Rights Conventions assumes obligation to protect the rights enshrined there under. Further, these treaties specifically call for necessary legislative, administrative and judicial measures to be adopted at the domestic level by the State Parties to give effect to the rights guaranteed under them. The most underlying point is that, the nine core UN human rights treaties specifically mandate the State Parties to implement the Convention rights in accordance with their Constitutional process.

Not only is the international obligation to implement human rights treaties, there is also a constitutional mandate under Article 51(c) of the Constitution of India to respect treaty obligations.

5. Exhaustion of All Local Remedies:

International law has traditionally favoured domestic courts as the place to resolve disputes between States and individuals. Although a number of international bodies are willing to hear claims that an individual’s human rights have been violated, they will normally entertain such complaints only if the individual in question can
show that he or she has exhausted all local remedies or that no such remedies exist
(known as the ‘rule on exhaustion of domestic remedies’). The main reason for this is
that a State should not be held to be in breach of its international obligations if a
remedy for such breach exists at the national level. More pragmatically, national
remedies are a good way for the authorities to discover problems with the
implementation of human rights without the need for external involvement.

It is in this background that the domestic application of international human
rights law assumes lot of importance and this study is undertaken to examine critically
the efforts made by the three organs of the State – Legislature, Executive and
Judiciary – to fulfill the international and constitutional mandate to implement
international human rights treaties in India.

1.12 Statement of the Problem:

India is a Party to six of the UN Nine Core Human Rights Treaties and has
also signed two of the three except ICRMW. These Treaties specifically impose
obligation on States Parties to guarantee the rights enshrined therein through
necessary measures such as legislative, judicial and administrative at the domestic
level. The most underlying point is that, these treaties specifically mandate the State
Parties to implement the treaty rights in accordance with their Constitutional
process. Further, the obligation imposed is on the State and it includes all the three
organs- Legislature, Judiciary and Executive.

It has been said that India being a Commonwealth country follows dualist
view, that is, an enabling legislation by Parliament is necessary to enforce
international treaties. However, one has to test this statement on the touchstone of
Constitutional Provisions that whether the Constitution mandates an enabling
legislation to implement international treaties?

Further, given the mandate of international human rights treaties, the other
compelling issues that emerge are; whether the three organs of the State have requisite
power under the Constitution to implement human rights treaties? If yes, what efforts
have been made so far in this direction? If no, what is to be done to realize effective
implementation of treaty rights?
1.13 **Research Questions / Issues:**

1. What is the philosophy of Constitution of India in relation to Domestic Application of International Law?
2. Whether International Human Rights Law is part of *Corpus Juris* of India? If not, when it becomes part of *Corpus Juris* of India?
3. What is the significance of “Ratification” of a Treaty under International Law and under the Constitution of India?
4. Whether courts in India can directly enforce International Human Rights Law without the aid of domestic legislation incorporating it?
5. What happens when there is conflict between the Provisions of International Human Rights Law and Domestic Law in India?
6. Should future International Human Rights Treaties contain no *a’la carte* provision, requiring ratifying states to guarantee the full incorporation and enforcement by domestic law of their provisions?
7. What extent International Human Rights Law influenced domestic courts in better enforcement of Human Rights?
8. What is the philosophy of ‘The Protection of Human Rights Act, 1993’?
9. Whether doctrine of “Legitimate Expectation” can be applied in enforcing International Human Rights Law in India?

1.14 **Hypothesis:**

H1. Problems of Domestic Implementation of Human Rights Treaties by state parties can be resolved only by way of “time bound” implementation.

H2. Introducing ‘no ala carte’ provision can solve the problem of ‘Reservations’ to International Human Rights Treaties.

H3. Ratification signifies willingness to be bound by treaty provisions. Hence, further domestic incorporation is not necessary.

H4. The act of “ratification” of a treaty by a state confers “legitimate expectation” among its people and can be enforced on this premise even in the absence of domestic legislation incorporating it.

H5. Part III of Indian Constitution is exhaustive and there is no need to refer to International Human Rights Law.

H6. Creating District Human Rights Courts will ensure better protection of Human Rights in India.
1.15 Scope/Limitation of the Study:

The research study is limited to the extent of the domestic application of *International Human Rights Treaties* in India. The term “International Human Rights Law” though embrace customary and treaty rules, but is used in this research study to mean only Treaties. Thus the domestic application of customary international law on human rights is not within the purview of the study. Further, the terms Application, Implementation and Enforcement though technically carry different meanings are used in this research work as synonyms. Strictly, the term *implementation* refers to the domain of legislature, *enforcement* the domain of executive and *application* the domain of courts.

The research study is not “rights” specific but is confined to the source of power for the three organs of the State- Legislature, Executive and Judiciary- to implement the international human rights treaties in India and the efforts made in this regard by these organs within the constitutional parameters. Through this process the research study aims at providing concrete solutions to the problem of domestication of international human rights treaties in India. In this way the research study avoids making any normative claims.

The researcher is fully aware in the present context, how important the study is. India is a country of more than a billion people. Majority still fights for basic necessities of life like food, shelter, cloth education and health facilities. Domestic Enforcement of International Human Rights Law will definitely be handy in addressing human rights issues in India.

This research work is developed from the effort of researcher to contribute to the understanding of the scope of International Human Rights Law of its Domestic Application in India. The contribution is timely because of the growing concern for human rights issues.

This research study is therefore of significant importance to legislators, executives and lawyers, judges involved in application, implementation and enforcement of Human Rights and thereby developing human rights jurisprudence. It addresses the impediments in Domestic Implementation of International Human Rights Law and makes suggestions in overcoming such impediments for better protection of Human Rights in India.
1.16 Objectives:

1. The broad objective of the study is to examine critically as to whether India has complied with its International Obligations in implementing International Human Rights Law.

2. The paramount consideration of the study is to examine critically the Legislative, Executive and Judicial efforts in implementing / enforcing International Human Rights Law in India.

3. To examine as to whether rights guaranteed under the Constitution of India are exhaustive enough so as to negate the recourse to International Human Rights Law.

4. To examine the challenges / impediments the legislative, executive and courts are facing in the implementation / enforcement of International Human Rights Law in India.

5. To find out and suggest necessary action / strategies to be adopted in better implementation / enforcement of International Human Rights Law in India.

6. To ascertain as to whether the process of ratification of International Treaty by a State (India) creates an International Obligation to implement Treaty Provisions domestically or is it a bare promise?

1.17 Methodology:

The Methodology adopted for this research is purely Doctrinal. The Researcher adopted a combination of Historical, Analytical and Comparative methods of research for this study. The data for the research are from primary and secondary sources. The primary sources of the data consist of International Conventions, Statutes, and Case Law etc. The secondary sources of the data are Constituent Assembly Debates, Law Commission of India Report, Papers presented/submitted to Commission/Committee constituted by the Government and Articles, Opinions, published in reputed law journals, books, magazines, print media and internet.
1.18 Review Of Literature:

A review of literature is devoted for making a brief review of previous studies on the problem and significant findings on the topic under research. This review of literature is intended to state current state of information in the area of investigation and to state the concepts relating to the present study on domestic application of international human rights law, particularly in India. It also explores research gaps that exist and how this present study attempted to fill those gaps is highlighted in this section.

Research is a continuous and never ending process. The topic under research required an analysis of theoretical (concepts), legislative (statutes) and judicial (case law) data and for this the researcher collected relevant material and cross checked and updated the data from the concerned official websites. For example, India’s ratification status on the UN Nine Core Human Rights Treaties is cross checked and updated from the official website of the Office of UN High Commissioner for Human Rights.

1. Literature Survey :

The Researcher collected relevant Books, Articles, Reports, Case laws, etc., for the purpose of his research on the topic. They are discussed briefly in the following heads:

A) Books

The Researcher referred 30 books for the purpose of the present study. Some of the important books are discussed herein:

i) “Introduction to the Constitution of India” - Dr. Durga Das Basu, the most celebrated author on Constitution of India, has uncovered the minute details of the Constitution of India. The renowned author explored the history behind the evolution of the Constitution before embarking on the exposition on the Chapter on Fundamental Rights, Directive Principles of State Policy and Fundamental Duties. The demand for the Fundamental Rights in India and their categorization is uniquely dealt with. The 20th edition (2012) of the book
is now edited by V.R. Manohar et al., with updated case laws till January 2012 and up to 97th Amendment.38

ii) “The Judicial Application of Human Rights - National, Regional and International Jurisprudence”, - by Nihal Jayawickrama is a treatise on rights based approach to domestic application of International Human Rights. The learned author has made in depth analysis of International and Regional Treaties on Human Rights and has referred umpteen numbers of case laws that cut across all continents including 85 Indian cases. The learned author has made lucid discussion on historical and juridical background to human rights, International Bill of Human Rights, domestic and International protection of human rights.39

iii) “The International Law of Human Rights” by Paul Sieghart is an authoritative text on the interplay of International Human Rights Treaties and Municipal Law. The book was published in 1983 and the law examined in the book was as on 1st January 1982. The discussion made in the area of “Participation in the Instruments” i.e., formation process of treaties, “Domestic Effect of the Instruments” and “The State Obligations” with relevant provisions of International Human Rights Treaties is accurate and authoritative one.40

iv) “Fundamental Rights” by P. Ishwar Bhat showcases the relationship of fundamental rights inter se. The discussion made at Chapter no.3 – Historical Experiences about Interaction of Human Rights Values in India and Chapter no.15 – International Human Rights Discourse and the Interrelationship, particularly on “Impact of International Human Rights Law upon the Indian Fundamental Rights Jurisprudence – the Interrelationship Perspective” is highly informative and authoritative one. The learned author has discussed the Bangalore Principles on the Domestic Application of International Human Rights Norms and also the Report of the National Commission to Review the Working of the Constitution (NCRWC) particularly Chapter-3- “Enlargement

of Fundamental Rights” at Chapter 15 of the book to examine the impact of International Human Rights Law on Fundamental Rights.41

v) “Federal Constitutions and International Relations” by John Trone is a tiny treatise on the actual relationship between treaty provisions and the powers of the branches of government in federations. The book is not about theory but it is an exposition of legal principles. The author has mainly concentrated on “federal powers to make and to implement treaties” and in this context refrained from making any reference/discussion on “the incorporation of customary international law as domestic law” in the book. The discussion made at Chapter-3- “Original Intentions”, and Chapter-5- “Domestic Legal Status of Treaties” and Chapter-6- “Fragmented Treaty Implementation in Federal States” is wonderful exhibition of comparative analysis of the relevant constitutional provisions of Federal States including India. The author has briefly discussed the Constituent Assembly Debates of India to ascertain the true intention of the Framers of the Constitution in the area of “power to make and implement treaties”. The foot notes in the book is treasure of information and provocative for any researcher to conduct further research.42

vi) “The law of Treaties” by McNair is a classic work on the subject-Law of Treaties”. The Chapter 1 on Essential Characteristics of a Treaty gives basic knowledge on treaty. Chapter 2 deals with the capacity of Parties to enter into treaties at the international level. The Chapter 3 is an extension of the discussion made in Chapter 2 dealing with constitutional requirements of a State to conclude and implement treaties. The learned author argues that a treaty to be valid and binding, the State should have requisite source of power under its Constitution - constitutional requirement for conclusion of a treaty. Once the State has requisite source of power under its Constitution to conclude treaty, it is bound by the terms of the treaty at the International Level. However, the same is not true in case of domestic implementation of the treaty. The learned author explains - based on the practice of States - the necessity of another requirement for domestic implementation i.e., constitutional requirement for implementation at the domestic level. A State

may have capacity to enter into treaties under the Constitution but may lack
the power to implement the treaty. The learned author argues that, incapacity
to implement a treaty does not render the treaty invalid and the organ of the
State responsible for implementing the treaty should carry on with the treaty
implementation. The learned author mainly dealt English Cases on these
aspects but his exposition to the subject on these aspects holds key to the
understanding of Law of Treaties.43

vii) “How International Human Rights Law Affects Domestic Law” by Roger S.
Clark is an essay published in “Human Rights New Perspectives, New
Realities” edited by Adamantia Pollis. The author Roger S. Clark succinctly
narrated the position of International Human Rights Law in United States of
America (USA). His description of Legal Framework of USA on International
Law and the subsequent evolution of Self Executing and Non-Self Executing
doctrines by the Supreme Court in USA provides much needed information
for comparative analyses of legal systems.44

viii) “The Constitution of India and International Law” by Subhash C. Kashyap is
an article published in “India and International Law” edited by Bimal N. Patel.
The learned author examined the relevant provisions of Indian Constitution on
the Status of International Law in India. He has also examined briefly the
demand for human rights in India during freedom struggle. The author then
examined the International Environmental law and its impact on India and in
this process has enlisted several laws that Parliament has passed to protect the
environment in India.45

B) Articles

i) “Treaties and People: Indian Reflections” by Rajeev Dhavan provides an in
depth analysis of evolution of treaty making power of the Government in the
Indian context. The learned author traced the original intentions of the Framers
of the Constitution on the treaty making power by referring to the Constituent
Assembly Debates. The learned author examined the impact of Treaty Making

Ltd., New Delhi, 2002.
45 Subhash C. Kashyap, “The constitution of India and International Law”, Bimal N. Patel (ed.), “India
of the Union Executive Power on the Federal Nature of the Government. He states that the exclusive power conferred by the Constitution on Union Executive in concluding the treaties and the Parliament’s power to enact laws to implement such treaties even though the subject of the treaty falls within the Concurrent List is nothing but an invasion on legislative jurisdiction of States on Concurrent List by the Parliament. In this context the learned author enlists certain limitations on the Union Executive power to conclude treaties, like, creation of clear norms for prior consultation with Parliament and the people in respect of treaties of high importance and declaration to the international community that no treaty will be considered as valid and binding unless and until the constitutional procedures are complied with.46

ii) “An Ancient Indian Perspective of Human Rights and its Relevance” by B.C. Nirmal is an exploration into the genesis of human rights in India. The learned author examined the western concept of human rights with that of hindu concepts on human rights and highlights the fact that the hindu philosophy laid more emphasis on duties. He argued that implementation and enforcement of human rights perforce depend on the duties of human beings toward others and this was evident in hindu philosophy as dharma.47

iii) “Domesticating International Obligations: How to Ensure U.S. Compliance with the Vienna Convention on Consular Relations” by Sarah M. Ray is a case study of the obligation of the U.S.A. in relation to Vienna Convention on Consular Relations, 1961 (herein after as Consular Convention). The learned author examined the obligation of State Parties under Article 36 (1) of the Consular Convention that arose out of LaGranda Brothers Case both at the domestic level and international. The learned author has succinctly examined the decision of International Court of Justice (herein after as ICJ) in Federal Republic of Germany v. U.S.A48 (2001) (popularly known as LaGranda Brothers case) on U.S.A. Courts. This article offers an analysis into

domestication human rights standards before the national Courts in the light of ICJ decision in LaGranda Brothers case.49

iv) “Because the Cart Situates the Horse: Unrecognized Movements Underlying the Indian Supreme Court’s Internationalization of International Law” by Saptarishi Bandopadhyay offers an in depth analysis of Internationalization of International Environmental Law in the Indian context. The learned author bases his article on the ratio of Vishaka v. State of Rajasthan50 (1997) (herein after as Vishaka). He explored the logic of the Supreme Court in Vishaka on Internalization of International Rules. The learned author exhumes three means/ways through Vishaka judgment for internalizing International Rules in India.51

v) “International Dimensions of Human Rights and International Obligations of India” by Noorem Sanajaoba explores treaty obligations of India in the area of human rights. The learned author examined India’s obligations under the Charter of United Nations and other human rights treaties. He further inquired into the Periodic Reports submitted by India before the treaty body of International Covenant on Civil and Political Rights.52

vi) “Could Domestic Courts Enforce International Human Rights Norms? An Empirical Study of the Enforcement of Human Rights Norms by the Indian Supreme Court Since 1997” by Rajat Rana is an empirical study on enforcement of International Human Rights Norms by the Supreme Court of India between 1997 and 2008. The learned author examined human rights cases in which the Supreme Court referred International Human Rights Norms and finds that the Supreme Court has in larger number of cases merely used the International Human Rights Norms to support its decisions.53

50 AIR 1997 SC 3011.
vii) “The Human Rights Committee of the International Covenant on Civil and Political Rights: Practice and Procedure in the New Millennium” by Sandy Gandhi is explores the practice and procedure of the ICCPR treaty body i.e., Human Rights Committee (CCPR). The author examined the recent developments in Reporting Procedure in cases where State Parties Periodic Reports are due for a long period by notifying the State through Secretary-General to hold private session with the State to examine the efforts taken by the State in implementing the ICCPR.54

viii) “Incorporation of International Human Rights Documents into Indian Law-Response of the Supreme Court” by P.S. Seema is a critical study of Supreme Court’s efforts in internalizing International Human Rights Treaties. The author critically examine the decision of Supreme Court in Masilamani Mudaliar v. Idol of Swaminathaswami55 and Madhu Kishwar v. State of Bihar.56 The author has explored the possibilities of implementing the International Human Rights Treaties in the absence of an enabling legislation, like, issuing Ordinance by the Central Government.57

2) Survey of Reports.

The Researcher has referred the following Reports for his study:

i) 54th Report of the Law Commission of India, 1973. The Law Commission in Chapter 1-E of the Report under the title EXECUTION, at point no.1-E.7 p.40 raised the question which is as follows- “The question to be considered is whether any change is needed in the present position. The first point is whether the provision in the International Covenant on Civil and Political Rights which provides- “No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation” is violated by section 51.” The Law Commission then at 1-E.8 p.40-41 discussed Xavier v. Canara Bank

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55 AIR 1996 SC 1864.
56 AIR 1996 SC 1697.
ii) **The Final Report of the National Commission to Review the Working of the Constitution (NCRWC) 2002.** The NCRWC at Chapter-3 titled “Enlargement of Fundamental Rights” suggested various amendments to Part-III of the Constitution so as to bring Part-III in conformity with ICCPR and ICESCR. While noting the developments in the area of human rights jurisprudence at the international level, especially the adoption of the ICCPR and ICESCR, the NCRWC recommended the inclusion of as many as 16 specific rights to be included under Part III of the Constitution. At Chapter-8 the NCRWC made observations on Article 253 and made recommendation to the Central Government to consult States before implementing international treaties.

3) **International Instruments on Human Rights: The Charter of United Nations and the UN Nine Core Human rights Covenants/Conventions:**

The Provisions of the Charter of United Nations (UN) on Human Rights and the UN Nine Core Human Rights Treaties are the basis of the study. The Researcher apart from UN Charter, has referred the following Covenants/Conventions:

i) International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (ICERD);

ii) International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR);

iii) International Covenant on Civil and Political Rights, 1966 (ICCPR);

iv) Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW);

v) Convention on the Rights of the Child, 1989 (CRC);

vi) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, 1984 (CAT);

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60 Final Report available at www.lawmin.nic.in/ncrwc/finalreport.htm - Visited on 16-05-2012 at 05-00 p.m.
vii) International Convention on the Rights of Migrant Workers and Members of their Families, 1990 (ICRMW);
viii) International Convention for the protection of All Persons from Enforced Disappearance, 2006 (CPED);

4) Bangkok Principles:

The Researcher has referred the General Principles stated at the conclusion of the First Commonwealth Judicial Colloquium on The Domestic Application of International Human Rights Norms, held in Bangalore, 1988. The General Principles adopted at the Bangalore Colloquia are called as Bangkok Principles. Further a series of such Judicial Colloquiums were held in other countries building the Bangkok Principles.

5) Papers:

The researcher has referred the following important papers on the research topic:


6. Constitutional Assembly Debates:

The Researcher in order to find out the “Original Intentions” of Framers of the Constitution on the “Power to Conclude (enter into) and Implement International Treaties” has referred the Constitutional Assembly Debates (CAD) on Article 73, 51(c), 253 and Entry 13 and 14 of List 1 of VII Schedule of the Constitution which are discussed in Volume No. 5, 7, and 8 of CAD. This information is utmost important in understanding and interpretation of the provisions of the Constitution on the research topic.61

61 The entire text of CAD is available at http://parliamentofindia.nic.in/ls/debates/debates.htm
7. Data Collection and Work Done:

The Researcher has visited the following libraries to collect literature required for the research work;

i) National Law School of India University Library, Bangalore,

ii) University Library, University of Mysore,

iii) Karnataka University Law College Library, Dharwad,

iv) Karnataka High Court Judges Library, Bangalore.

v) K.L.E. Society’s Law College Library, Bangalore.

Conclusion:

While navigating through the above data, the Researcher encountered lack of updated information on the International Treaties, National Statutes and Case Laws. There have been attempts to decode the data on the subject of Domestic Application of International Human Rights Law in India, but are largely on Judicial side. There has been no effort whatsoever to examine the efforts made by the Legislative and Executive wings of the State. Further, there is dearth of literature on the point of “Constitutional Requirements to Conclude (Enter into) and Implement International Treaties in India”. It is taken for granted that once International Treaty is entered into especially Human Rights Treaty, the other Organs of the State are bound by the terms of the Treaty and are under an obligation to implement it. From the constitutional requirement point of view, that is not so. It is in this context the original intentions of the Framers of the Constitution on this point have been examined by referring Constitutional Assembly Debates. The review of literature reveals that no research has been done on the point of “Subject to the provisions of the Constitution” – the saving clause under Article 73 of the Constitution that empowers the Union Executive to enter into and implement treaties. Further, many scholars have adopted “rights” based approach on the domestic implementation of human rights treaties and randomly selected case laws on those areas, like, civil and political rights, economic rights, etc. However, there has been no attempt to examine the judicial approach on the subject from chronological order of Supreme Court Judgments, i.e., date of judgment wise. This approach helps to understand the judicial attitude towards the subject from time to time. This approach reveals the paradigm shift of the Supreme Court when it first negativized the domestic enforcement of International Human Rights Treaties in the

Thus the Researcher has adopted new methodology, like, referring to Original Intentions of Framers of the Constitution on the research topic, referring to the Supreme Court’s Judgment in chronological order to find out the change in judicial attitude from time to time on the research topic and the most relevant one of constitutional requirement of making and implementing of International Treaties, i.e., from “source of power” point of view.

1.19 Chapterisation/Scheme of the Study:

This research work titled *Domestic Application of International Human Rights Law in India – A Critical Study* is divided into NINE Chapters.

**CHAPTER-I:** This Chapter deals with introduction to the research topic, and Statement of the Problem, Research Questions, Hypothesis, Scope of the Study, Objectives of the Study, Methodology adopted and Review of Literature followed by this brief description of all the Chapters.

**CHAPTER-II:** This Chapter Deals with Evolution Of International Human Rights Law: The UN Nine Core Human Rights Treaties.

**CHAPTER-III:** This Chapter deals with Nature and Scope of Obligations of States under the UN Nine Core Human Rights Treaties.

**CHAPTER-IV:** This Chapter deals with Human Rights Content under the Constitution of India and the Relevance of International Human Rights Law to India.

**CHAPTER-V:** This Chapter deals with the Relationship between International Law and Municipal Law with Brief Account of State Practices (other than India) in this regard.

**CHAPTER-VI:** This Chapter deals with Significance of Formation Process of International Treaty under International Law.

**CHAPTER-VII:** This Chapter deals with Constitutional Requirements for Conclusion of International Treaties in India.

\(^{62}\) AIR 1980 SC 470.

\(^{63}\) AIR 1997 SC 3011.
CHAPTER-VIII: This Chapter deals with Application of International Human Rights Law in India – Executive, Legislative and Judicial Efforts: A Critical Appraisal.

CHAPTER-IX: This Chapter provides concluding remarks on the entire research work spreading from Chapter one to nine and Suggestions/Recommendations.