6. TRIPS PROVISIONS OF WTO AND INDIAN CONSTITUTION
WITH PARTICULAR REFERENCE TO DIRECTIVE PRINCIPLES OF STATE POLICY.

Before the adoption of the Indian Constitution, the Indian practice in respect of relation of international law to Indian Law was similar to British practice. As Justice Diplock observed, "where by a treaty, the British Govt undertakes to introduce domestic legislation to achieve a specified result in the United Kingdom or to secure a specified result which can be achieved by legislation, the treaty, since in the English is not self operating, remains irrelevant to any issue in the English writ, until Her Majesty's government has taken Steps of legislation to fulfil its treaty obligation". Also customary rules of international law are part of the law of the land. However after independence, the adoption of the constitution the practice depended on the provision of the constitution.

The relevant provision of the constitution is

Art 51 in Part IV of the constitution which reads as follows:

(a) Promote international peace and securities
(b) Maintain just and honourable relations between Nations.
(c) Foster respect for international law and treaty obligation in the dealings of organised peoples with one another and

(d) Encourage settlement of international disputes by arbitrations.

Since it falls in the directive principles of State policy in Part IV the provision is essentially non justifiable but a valuable guide in the governess of the country in practices of international law. The provision does not provide any direction with regard to the position of international law in India.

As per Art 372 (1) all the laws in force in the territory of India immediately before the commencement of this constitution shall continue in force until altered or repealed or amended by a competent legislature or other competent authority”. Therefore international law can become a part of municipal law only by a specific incorporation.

The British Practice continued to be adopted after the commencement of the constitution i.e.(post independence)

The Supreme Court held that the Indian Extradition Act 1903 had been adopted by the Fugitive offenders act of the British Parliament had been left severally alone and Indian was not bound in the absence of a new treaty to surrender the Nationals who have committed extraditable offences in the territories of India. The provision of the Act could only be made applicable to India by incorporating them with the appropriate changes into an Act of the Parliament. The will of the

1 Solomon Vs Commissioner of customs and Excise 1967 2QB 116.
Parliament can prevail over a treaty negotiated by the Executive since sovereignty rest with the Parliament¹.

In this regard it is relevant to mention the preamble to the Tokyo convention Aft 1975 which provides “An act to give effect to the convention on offences and certain other acts committed on board aircraft”. In this regard, the Indian Parliament adopted the treaty by passing suitable Act namely whereas a convention on offences and certain other acts committed on board aircraft was on the 14th day of September 1963 signed at Tokyo. And whereas it is expedient that India should accede to the said convention and should make provisions for giving effect thereto; Be it enacted by Parliament in the 26th year of India as follows. Similar adoption would have been found in the Preamble Acts in pursuance of treaties or conventions such as the Preamble to the suppression of unlawful Acts, against safety of civil Aviation Act 1982, enacted in pursuance of the convention for suppression of unlawful Acts Against safety of civil Aviation signed at Montreal on 23 Sep 1971.

A treaty is essentially negotiated and signed by an accredited person or plenipotentiary on behalf of the state. Subsequently, unless it is a treaty that comes into force on signature, the treaty is subject to ratification. The benefits of ratification are many, as developed by France and the United States, which used it as a means to subject the

¹ State of Madras Vs G.G.Menon AIR 1954 SC 517
powers of treaty making to parliamentary control. Ratification gives the parties an opportunity to re-examine the treaty and study its provisions thoroughly and non-ratify it if the state so wishes. Ratification is done in different ways in different countries. in India the President ratifies the treaty on the advice of the central Cabinet.

The Supreme Court on the application of the international covenant for civil and political right held that "The positive commitment of the state parties ignites legislative action at home but does not automatically make the covenant an enforceable part of the corpus Juris in India1.

Justice Krishna Iyer held that in case of conflict between a provision of an international treaty such as Art II of the International covenant on civil and Political Rights to which India is a party and a provision of a State statute such as Sec 51 and order 21 Rule 37 of the code of civil procedure, it is the latter which shall prevail if the International treaty in question has neither been specifically adopted in the Municipal field nor has undergone transformation. However, Justice Krishna Ayer construed Sec 51 of the code of civil procedure in such a way as to avoid conflict with Art 11 of the International covenant on civil and political Rights, in effect affirming Justice H.R.Khanna's dissenting view in the A.D.M.Jabalpur case that where two constructions of Municipal law are possible.
Indian courts can give effect to international law by resorting to a harmonious construction. In Gramophone Co India Ltd V Birendra Bahadur Pandey, AIR 1984 SC 667, the court held that national courts shall approve international law only when it is not in conflict with national law.

The Supreme Court in Apparel Export promotion council Vs A.K.Chopra held that the court are under obligation to give due regard to international convention and norms for construing domestic laws, more so, when there is no inconsistency between them and there is a void in domestic law. The court also observed that in cases involving violation of human rights, the courts must for ever remain alive to the international norms and domestic law occupying the field. The same was held in Peoples union for civil Liberties Vs UOI [1997] 35 CC 433. The Supreme Court protection applies only to those treaties, which are rights enhancing and not those that destroy rights against public interest.

India is a member of many international bilateral and multilateral treaties entered into between various nations. Ex. UN, Commonwealth of Nations, South Asian Association for Regional cooperation, Paris convention, Berne convention, WIPO, GATT 1947, ILO, International civil Aviation Organisation and so many other treaties. Having becoming a member of various treaties we effectively implement the

1 Jolly George Verghese Vs The Bank of cochin AIR 1980 SC 470
treaties through parliament and enact enabling legislation so as to be in conformity with the directions and provisions of the treaties mentioned above.

The labour laws in India including the Industrial Disputes Act, Minimum wages Act, Payment of wages Act, ESI Act factories Act, Contract Labour Abolition Act, Child Labour Abolition Act, trade Union Act, are all the consequences of giving effect to the basic objectives of assuring dignity of the individual and secure the social justice to the poor and weaker section of the society from the exploitation of the other. There are various laws in business was enacted so as to provide reasonable competition and welfare of the nation such as industrial regulation Act, MRTP Act, Companies Act, Partnership act etc.

The preamble to Indian constitution was drafted after elaborate discussion by the founding fathers about the manner in which the India is to be administered. The principal objective of the preamble mentioned above declares that it envisages India as politically, economically and democratically developed country to meet the needs of the people in a secular and social way. The principle objective is to attain a system where equal opportunity is to be given to all citizens and to provide Justice in all field of social, economic and political field. The end sought to be achieved by the nation is to
provide equal opportunity to all unconditionally. The Constitution intends to establish INDIA as a Secular and Welfare State

From a perusal of the preamble it can be understood that the source of all authority under constitution is the people of India and that it is Sovereign. Sovereignty is a basic element of the constitution and the latter cannot be amended to do away with the former.

One of the constitutional expert opined that, The court is relying on the object enshrined in the preamble to the constitution, wherever the language of the enacting provision permits " (FN: Basu – Constitution of India

In Gopalan A.K. vs. State of Madras AIR 1950 SC 27, the Supreme took a restricted view of the scope and effect of the preamble. The majority of the Court held that law in Article 21 refers to positive or State made law and not to natural justice and that this meaning could not be modified with reference to the preamble.

Later there was a shift and In re Serubarl Union AIR 1960 SC 845, 856, The Supreme held that the preamble shows the general purpose behind the several provisions of the Constitution, but It was not regarded as a source of any substantive power or limitation.

Refer 42 amendment to the constitution
However in Kesavananda Bharati Vs. State of Kerala, AIR 1973 SC 1461 there was a positive change of approach. The majority held that the objectives specified in the preamble contain the basic structure of the Constitution, which cannot be amended in exercise of the power under Article 368. However, within three years thereafter the preamble was amended to insert the words "Socialist" and "Secular (by the Constitution (42nd Amendment) Act, 1976 with effect from 03.01.1977. Nonetheless, it was held that the insertion of the word "Socialist" in the preamble only made explicit what was latent in the Constitutional Scheme - OTC Vs. OTC Mazdoor Union AIR 1991 SC 101.

Afterwards the Supreme Court demonstrated in its various decisions that the preamble as delineating the goal of the polity, so that it may be invoked, to determine the ambit of Fundamental Rights and the Directive Principles of State Policy


It has now been recognized that the preamble itself contains the ideals and aspirations of the Nation or the objects intended to be realized by the Constitution by its enacting Provisions

It has also been held that the Ideals of Socialism, Secularism and Democracy are elaborated by the enacting provisions.

State of Kerala Vs. N M Thomas -AIR 1976 SC 490:
Shim Singhil Vs. Union of India - AIR 1981 SC 234:

The then Prime Minister JawaharLal Nehru, while participating in a discussion on the constitution (First Amendment) Bill, observed that “the Directive Principles are intended to bring about a Socio, economic revolution and to create a new socio economic order where there will be social and economic justice for all and every one, not only a fortunate few but the teeming Millions of India, would be able to participate in the fruits of freedom and development and exercise the fundamental rights”.

The edifice of our constitution is built upon the concepts crystallized in the Preamble. We resolved to constitute ourselves into a Socialist State, which carried with it the obligation to secure to our people Justice- Social, Economic and Political. We therefore put Part IV into our constitution, containing directive principles of State Policy which specify the socialistic goal to be achieved.

Equality before law is correlative to the concept of rule of law for all round evaluation of healthy social order. A basic postulate of the
rule of law is that “Justice should not only be done but it must also be seen to be done”

The object of Art 21 is to prevent encroachment upon personal liberty by the Executive save in accordance with law and in conformity with provisions thereof. Right to life enshrined in Art 21 means something more than survival or animal existence. It would include to live with human dignity a right to minimum subsistence allowance during suspension. It would include all those aspects of life which go to make a man’s life meaningful, complete and worth living. That which alone makes it possible to live must be declared to be an integral component of the right to live.

It would include all that gives meaning to a man’s life (eg) his tradition, culture, heritage and protection of that heritage in its full measure.

The SC held in Kesavanand Bharati Vs State of Kerala, AIR 1973 SC 1461 that the preamble of the constitution was of extreme importance and that the constitution should be read and interpreted in the light of the grand and noble vision expressed in the preamble.

The avowed principle of sovereignty allows the preamble and indeed the constitution look at the needs and aspiration of the Indian
people and to create a political system most suited for our nation. Our country consists of various cultural, linguistic and inequalities in the distribution of wealth etc. Therefore the preamble to the constitution envisages freedom from British but also democracy in politics and calls for social and economic justice to Indian citizens.

The object of the constitution in the words of Pandit Jawaharlal Nehru Prime Minister of our nation is that "Democracy has been spoken of chiefly in the past, as political democracy, roughly represented by every person having a vote. But a vote by itself does not represent very much to a person who is down and out, to a person let us say who is starving and hungry. Political democracy, by itself, is not enough except that it may be used to obtain a gradually increasing measure of economic democracy, equality and the spread of good things of life to others and removal of gross inequalities. The concept of equality and equal protection of laws guaranteed by ART 14 IN ITS proper spectrum encompasses social and economic justice in a political democracy.²

The directive principles of State policy incorporated in Part IV of the constitution emphasis that the government has an obligation to ensure to its citizens, social and economic justice and dignity of the individual. Art 39A has been provided to enjoin the State to provide

¹ Refer 42 amendment to the constitution
² Dalmia Cements Vs Union of India (1996) 1 SCC 104
free legal aid to the poor and to take other suitable steps to ensure
equal justice to all.

Art 43 A directs the state to ensure participation of workers in
the management of industry and other undertakings.

Art 38(2) states that the State shall strive to minimise
inequalities of income and endeavour to eliminate inequalities in
status, facilities and opportunities not only amongst individual but
also among groups of people residing in different areas.¹

In the words of constitutional writer Mr. Granville Austin, “By
establishing these positive obligation of the State, the Members of the
constituents Assembly made it the responsibility of future Indian
Government to find a middle way between individual liberty and
public good, between preserving the property and the privilege of the
few and bestowing benefits on the many in order to liberate the
powers of all men equally for contribution to the common good.²

The law in force in India as defined in Art 13 of the constitution
as including Ordinance, order, bye law, regulation, notification,
custom or usage having the force of law are peculiar and unique to the
Indian landscape having found their basic in religion, culture and
history of India. The laws were created with the sole intention of

¹ AIR 1997 SC 647 AIR India Statutory Corporation VS United Labour Union
² Granville Austin The Indian constitution
protection the fledgling economy from the powerful conglomerates from outside the economy.

To fulfil one of the objectives of the fundamental obligation the Government passed laws to confer dignity to the schedule caste and schedule Tribes (prevention of Atrocities) Act, which is unique and necessary for the upliftment of Indian Society.

It envisages a mixed economy which is uniquely prevalent only in India i.e. socialism and democratic together. Our Prime Minister Mrs. Indira Gandhi explained Indian socialism in the following words, "We have our own brand of socialism. We will nationalise the sectors where we feel the necessity. Just Nationalisation is not our type of socialism. According to Supreme Court the goal of Indian socialism is a blend of Marxism and Gandhism, leaning heavily towards Gandhian socialism. The end sought by the framers of the constitution was not collectivism, but equal opportunity for progress."

India is a signatory to the WTO wherein number of multilateral treaties was formed part of it. The government did not take the initiative to inform the people as to what the nation is to comply with the TRIPS and other treaty provision of WTO. In this regard what is the change they contemplated in Municipal laws and the consequences of various treaty is to be met by the people and the
nation as a whole. Except the pharmaceutical industry which is one of the developed industry in India and a competitor in Global trade stoutly oppose the move of Indian Executive signing the treaty which provide for product patent and the extended period of limitation of 20 years and other provisions under patients to be given effect to in INDIA. However the Government suo motto taking various steps to comply with TRIPS provision ignoring the protest or justifying the requirements of necessary amendments.

Firstly it amends various IP laws to be in conformity to TRIPS provision under an assumption that since it is a party to the above Treaty the amendment is a mandatory compliance.

Secondly it withdraws Govt participation in various public sector industry in favour of private individual (here it refers to foreign national also as per WTO). This is again a presumption that Treaty did not allow Govt to run public sector unit independently.

Thirdly it establish a Disinvestments Ministry for the specific purpose of withdrawing Government participation in public sector units into private corporation by reducing or disposing the share held by the Govt in favour of others (here it refers to foreign national also as per WTO)

1 D.S.Nakara Vs UOI AIR 1983 SC 130
Normally treaties are entered into between nations for the purpose of granting certain rights or to confer certain privileges among the nation. Before independence our laws are similar to British laws and even after independence we follow the practice of following or adopting English law with modification to suit to our circumstances.

It is a general principle that a treaty is binding only on the contracting parties and not to third parties without their consent. The concept is expressed in the Latin maxim Pacta tertie nec nocent nec prosunt. This rule has also been incorporated under Art 34 of the Vienna convention, which states that a treaty does not create either obligation or rights for a third state without its consent. A treaty may create obligations for a third state if the treaty creates international custom. It is because of this rule that the charter of the United Nation is binding on non members of the United Nations when it lays down in Art 2 paragraph 6 that the organisation shall ensure that states which are not members of the United Nations act in accordance with these principles so far as may be necessary for the maintenance of international peace and security. Thus since the maintenance of international peace and security is a customary rule of International Law, the obligations not to endanger them is binding on non-members also.

Art 52 of the Vienna convention on law of Treaties lays down that a treaty shall become invalid if its conclusion has been procured
by the threat or use of force in violation the principles of international law embodied in the charter of the U.N.

The above rule implies that the economic and political coercion, will not invalidate a treaty. It is so presumably because the operation of political and economic pressures is part of the normal working of the relations between states. Further it is difficult to distinguish between the legitimate and illegitimate uses of such form of pressure as a means of securing consent to treaties.

The consent to a treaty refers to the acceptance of the treaty by the executive of the contracting nation. The consequences that follow from such given consent is that such contracting /consenting country must implement the treaty provision requirement under the Municipal law by necessary amendment or introduce in the parliament as treaty for approval or ratification as the case may be.

Therefore it is an obligation of the Executive of the consenting nation to declare that his consent was based on an informed debate and a thorough study of the provisions of the treaty, the impact on the country of implementation of a treaty and a comparison between the provisions of the treaty and the constitution and municipal Law.

Art:253 of the constitution provide that notwithstanding the foregoing provisions of the chapter XI of Part XI, the parliament has
power to make any law for the whole or any part of the territory for implementing any treaty, agreement or convention with another country or countries or any decision made at international conference, association or other body. This empowerment does not however, mean that the parliament can do so without a debate. The parliament has been endowed with the said power only because the framers of the constitution obligate the legislatives to act in the interest of the nation and to fulfil the obligation enshrined in it. In Re Berubari Union and Exchange of conclaves, AIR 1960 SC 845, the Supreme Court observed that the treaty making power would have to be exercised in the manner contemplated by the constitution and subject to the limitation imposed by it.

In A.D.M Jabalpur vs Sukla, AIR 1976 SC 1207, the Supreme Court held that the Universal declaration of Human Rights and the two international covenants on Human rights were not a part of the Municipal law in India, despite India being a signatory to them. The Parliament has the power and indeed the duty to study the law and analysis the implications not only on domestic law but also on economic policy, domestic interest above all the welfare of the country from domestic point of view.

In view of the above it is clear and manifest that the treaties entered into by the executive need to be approved by the parliament to become a binding treaty for the purpose of enacting Municipal law for
enforcement of the provisions in the treaty as the provisions of Municipal Law. However the interpretation made by the Supreme Court where there is conflict between the provision of treaty and Municipal law, the municipal law will prevail is in order. But where the Municipal law is silent or no provision inconsistency with Municipal law since it is silent about the treaty provision then if the view of the SC is to upheld the treaty provisions shall lead to disastrous of situation which cannot be remedied.

Therefore while dealing with TRIPS, we are constrained to look into the background of accepting treaty and the subsequent act of executives in enacting legislation in conformity with treaty provision.

While enacting patent law for example, the Government has appointed two committees as have been mentioned in the first chapter to analysis the provisions of Patent Law and Design law and based on the recommendation the patent Act 1970 and The Design Act was passed separately. There by patent law and design law were made separate.

However in signing the multilateral agreements leading to the WTO which encompass an effective enforcement machinery called Dispute Settlement Mechanism was not discussed either before or after the signing of Treaty in Parliament or any where in India as if we have nothing to do with that.
The sovereignty of a liberal democratic state enables it to make laws, lay down rules and regulation compatible with the lives of its people, and in their interest. Equality is nothing but a synonym for sovereignty, pointing to a particular aspect of sovereignty. If all nations have supreme authority within their territories, nor can be subordinated to any other in the exercise of that authority. International law is a law among coordinated and not subordinated entities. Nations are subordinated to international law but not to each other.

Art 2 of the charter of United Nations declares "the organisation is based on the principle of sovereignty, equality of all its members its redundant language emphasises the importance it attributes to the principle of sovereignty and its logical corollary, the principle of equality. From this principle of equality, is derived a fundamental rule of international law, which is responsible for the decentralisation of the legislative and in a certain measure of the law enforcing function the principle of unanimity.

States like any other community cannot survive independent of each other. They are bound by their needs to each other. The needs may take the form of commerce, security or interaction for other mutual benefits such as pacts on environment or conveniences such as communication. These inter dependence leads to the necessity for arriving at laws and regulations for harmonious interactions and for
the amicable settlement of disputes. In the S.S.Lotus case international law was defined in the following words, "International law governs relations between independent states. The rules of law binding upon. States therefore emanate from their own free will as expressed in conventions or by usages generally accepted as expressing principles of law and established in order to regulate the relations between these coexisting independent communities or with a view to the achievement of common aims. Restriction upon the independence of states cannot therefore be presumed".

Justice Nagendra Singh, Judge, International Court of Justice, likening international to the law of Manu, remarked that the law "itself has an in built element of respect and sanction behind it and wise human beings in their own interests, need not search for authority to obey law as all laws are ordained to be obeyed.

However, in the interest of international peace and security, sanctions exist as pointed by Stark, under Chapter VII of the United Nation charter, where security council can take necessary action to maintain or restore international peace and scurrility, while Art 94 entitles a party to a dispute before international Court of Justice (ICJ) aggrieved by the non compliance of the order of the other party to approach the UN Security Council for measures to enforce implementation of the decision. Also under Art 2(4) of the charter of

1927 P.C.I.J. series N.N.10
the UN members have undertaken that they shall respect the territorial integrity and political independence of each other and shall not use force against each other. That is contained under Art 51 of the charter, which confers on the members the right of individual and collective self defence. But even this right can be exercised only when an armed attack has taken place and is subject to overall supervision and control of the Security Council.

According to the theory of auto limitation, international law is binding upon state because they have restricted their powers through the process of auto limitation and have agreed in their own interest to abide by international law or any treaty therein. The basis of the theory lays great stress on independence and sovereignty of each State. The basis of the theory as expounded, by Jellinek is that the state has a will, which is completely independent and free from external influence but through the process of auto limitation, the state can restrict its powers and thereby limit its will. Therefore, if the state in question amends existing municipal laws or makes new laws or contravenes or amends its constitution to make it amenable to pressure them it has voluntarily committed itself to it constitutes the loss of independence of its will.
It is necessary to take cognisance of the new trends in international law, particularly of the shift from sovereignty oriented consent to community oriented consensus. International law is now found not only in law making conference, but also in law creating conference such as UNCTAD, WTO, IBPD, IMF, OECD, OPEC etc. Pro. Jenks has aptly remarked "while it is somewhat less than a treaty, it must already be regarded as rather more than a statement of custom.

The international court of Justice has also lent its support to the above mentioned change, that is, from sovereignty oriented consent to in the basis of obligation of international law. In the case concerning Delimitation of the Maritime Boundary in the gulf of Maine Area the world court stated that consensus reached on large portion of the instrument cannot be invalidated by the fact that the convention adopted at the end of the conference had not come into force yet on account of a number of state not ratifying it. A similar observation was made in the case concerning the continental shelf where the court held that the 1982 convention had been adopted by an overwhelming majority of states, hence it is clearly the duty of the court even independently of the reference made to the convention by

1 R.P. Anand International organisations and the functioning of International Law JIL vol 24 No 1
2 Canada VS USA Judgement Oct 12, 1984
3 UN Conference on Sea
4 Libyan Arab Jamahriya Vs Malta Judgement of June 3, 1985
the parties, to consider in what degree any of its relevant provisions are binding upon the parties as a rule of customary international law.

This is clearly a triumph of the community-oriented consensus idea. By consensus is meant "a general attitude in favour of a position which may not necessarily be held by all members of the international community."\(^1\). The situation that has developed in international Law is a kind of tyranny of the democracy where the majority view is thrust upon the minority without considering the damages that might be caused to the minority, in the interest of majority. The European States in their interest in the 18\(^{th}\) and 19\(^{th}\) Centuries developed the theory of consent. With the emergence of large number of states and the horizontal as well as vertical expansion of international law, the traditional theory fails to cope with the interest and aspirations of the International Community as a whole, necessitating the enunciation of a dynamic and comprehensive theory basis of obligation. It is also necessitated by the very shift in the nature of intercourse between states from essentially inward looking economic status to a more global and open economic system. According to H.J.Morgenthau, "The often heard argument that a certain treaty would impose upon a nation obligations so onerous as to destroy its sovereignty is meaningless. A nation can take upon itself any quantity of legal restraints and still remain sovereign, provided those legal restraints do not affect its quality as the supreme law giving and law enforcing
authority." It would be Pertinent to state that often it is not the agreement or treaty itself that erodes sovereignty but the method of forcing upon countries and enforcing its obligations that are violative of sovereignty.

In today's world, the sovereign is responsible not only within sphere of the State but owe obligation under international law. While state's responsibility during war have been generally accepted since time immemorial. The new trend in international law also brings into the fold the responsibility on economic treaties and conditions of commerce.

The State now has a responsibility not only towards citizens and aliens on its territory but also foreign nationals who have commercial or other links within its territory/state. Whether the state can balance these interest while at the same time protect the interest of its citizens welfare and economic realities of its nation.

In the opinion of J. G. Starke, a democratic government should consult public opinion either in Parliament or elsewhere as to whether a particular treaty should be confirmed. Moreover the State have to amend an existing municipal law to give effect to a treaty.

The study of the process of treaty making in India in respect of the conclusion on treaty of TRIPS in the light of the fundamental

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1 Obed Y. Asamoah; The Legal significance of the Declarations of the General Assembly of the
obligations/directive principles of State policy shows that the general public has a very little role to play, since the majority of its representative are not to be aware of the treaty being signed by the Executive of the Nation. It is only the cabinet that may have full knowledge of the treaty and its implications to enable it to ratify it. However the process of specific adoption of a treat by legislation has to put up the treaty for general debate. The representatives of the people should raise to the occasion to decide whether or not the treaty is beneficial and whether or not its provisions should be applied to the citizens. This in turn will determine the consequence and implication of Treaty which require necessary modification in the municipal law. Here again the discussion about the same can be used for framing of domestic laws in conformity to the principles enshrined in the Constitution.

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