

Domestic Status of International Conventions on Treaty Law and Practices in India

Kshamaa*

Faculty, Department of Economics and Commerce, Patna University, Ashok Rajpath,
Patna, Bihar 800005

Abstract

In an era of globalization where the whole world has become a global village, law cannot remain unaffected. World is coming closer even in practicing rules and regulation by adopting global practices at individual country level. At such stage, a new upcoming branch of law namely, International Public Law is growing manifold. But merely making of such law will not serve the ultimate purpose. The whole global world must come closer by not only signing international treaties and conventions, but they must implement it at domestic level. The researcher has explored this very aspect of International Public Law i.e. domestic compliance of International Treaty Law and practices in special reference with India. Treaty law is one area where only little literature has been published in India. Hence, the area of Public International Law needs to be unleashed. The researcher has tried to explore the meaning and concept of conventions, international treaties and agreements, kinds of treaties, interface between international law and municipal law, implementation of international treaties in India, and lastly, Indian judiciary and international law. Finally, the researcher has concluded the whole research work and based on the above, given suggestions to improve the domestic compliance of treaty law in India.

Keywords: Conventions, treaty, international law, municipal law, schools of law, monists vs. dualists, treaty obligations

***Author for Correspondence** E-mail: kshamaakshamaa5@gmail.com

INTRODUCTION

Convention

A 'convention' is a formal agreement between States. The generic term 'convention' is thus synonymous with the generic term 'treaty'. Conventions are normally open for participation by the international community, or by many States. Usually the instruments negotiated under the auspices of an international organization are entitled conventions (e.g. the GENEVA CONVENTION).

An agreement or compact, particularly an international agreement, such as the GENEVA CONVENTION; an accord between states or nations, which resembles a treaty: ordinarily applied to agreements prior to an execution of an official treaty or which serve as its foundation; or to international agreements for the regulation of international affairs of common interest not within the ambit of commercial transactions or politics, such as international postage. An agreement between

states concerning finance, trade, or other matters considered less significant than those usually governed by a treaty; an assembly or meeting of representatives or members of legislative, political, or fraternal organizations [1].

INTERNATIONAL TREATIES AND AGREEMENTS

Entering into treaties and agreements with foreign powers is one of the attributes of State sovereignty. No State can insulate itself from the rest of the world whether it be in the matter of foreign relations, trade, environment, communications, ecology or finance. Hence entering into international treaties and agreements is one of the attributes of State sovereignty [2]. Though international law requires a State to carry out its international obligations undertaken by it by ratifying international treaties, but it does not govern the process of incorporating international law into municipal law. In fact, the States follow

different processes of incorporating international law into their domestic legal system, depending on their constitutional provisions in this respect. Thus, the process of implementation of international law at national level varies in different countries. The divergent State practices pertaining to incorporation of international law into municipal law have been explained by two schools of law: *monist* and *dualist*.

India follows the dualist theory for the implementation of international law at domestic level [3]. International treaties do not automatically become part of national law in India. It, therefore, requires the legislation to be made by the parliament for the implementation of international law in India.

Kinds of Treaties

Treaties are of two kinds: first category treaties are those which become binding because of signatures affixed at the completion of the negotiations. Examples of this kind of treaties are simple bilateral agreements. Then there are treaties which require a further step to be taken after the text has been established by signature before the treaty will take effect, whether by way of ratification or by legislation. Examples of this kind of treaties are the multi-lateral treaties which are generally far more important than the simple bilateral agreements. As has happened in the case of Uruguay Round of Trade negotiations held under the auspices of GATT, a Final Act is prepared, at the end of the negotiations, recording the result of the several multi-lateral treaty negotiations, which is signed by the delegations of the participating countries. The signature of the treaty, which is usually subject to subsequent ratifications, follows later. As a matter of fact, multi-lateral treaties routinely provide for ratification in case of those who have signed the treaty and for accession in case of those who have not signed the treaty.

INTERFACE BETWEEN INTERNATIONAL LAW AND MUNICIPAL LAW

International law has a very complex and uneasy relationship with the domestic laws of a country. The two systems are usually understood as distinct legal system of rules

and principles [4]. It is pertinent to note that international treaties are the result of the negotiations between the States and are governed by international law [5]. They are one of the most important sources of international law.

Divergent State Practice of Incorporation

Although international law requires a State to carry out its international obligations, domestic legal systems of different countries vary in respect of implementation of international law at national level. As a result, the process used by a State to carry out its international obligations varies from legislative, executive and/or judicial measures. States also follow different practices in incorporating treaties within its internal legal structure, so that the provisions can be implemented by State authorities. It is pertinent to mention that international law automatically becomes a part of national law or municipal law in some countries. In other words, as soon as a State has ratified or acceded to an international agreement, that international law becomes national law. Under such systems, treaties are generally considered to be self-executing treaties.

In other countries, international law does not automatically become part of national law of the ratifying State. International law in these countries is not self-executing, that is, it does not have the force of law without the passage of supplementary domestic national legislation. If one examines the constitutional texts, especially those of the developing countries, which are usually keen on emphasizing their sovereignty, the finding is that most of the States do not give primacy to international law over their municipal law [6].

Schools of Law: Monists vs. Dualists

The divergent State practices pertaining to incorporation of international law into municipal law have been explained by two schools of law. These two schools of law on the relationship between international law and municipal law are: *monists* and *dualists*.

The *dualists* regard international law and municipal law as separate. According to this school of law, municipal law can apply

international law only when it has been incorporated into municipal law. This incorporation can result from an act of Parliament or executive action or given effect by the courts. Thus, an unincorporated treaty has no formal standing in domestic law. Also, if international law conflicts with the domestic law, then domestic law will prevail. However, this does not necessarily mean that most states would disregard international law. What matters is the domestic legislations, the attitude of the domestic courts and the administrative practice, which is often inconsistent and ambiguous [7].

On the other hand, *monists* regard international law and municipal law as parts of a single legal system. According to this theory, municipal law is subservient to international law.

IMPLEMENTATION OF INTERNATIONAL TREATIES IN INDIA

The advent of globalization and the enormous advances made in communication and information technology have rendered independent States inter-dependent. Every State has entered and is entering treaties, be it multi-lateral or bilateral, which have a serious impact upon the economy and the social and political life of its society. There exists the fundamental importance of the treaty-making power. We in India cannot afford to ignore this subject any longer, particularly because of the experience of WTO Treaties signed by our Government without consulting or without taking into confidence either the Parliament or the public or, for that matter, groups and institutions likely to be affected adversely thereby. The agreements signed on intellectual property rights, trade, agriculture and services are so far-reaching that there is a body of opinion, which honestly thinks that some of the provisions of these agreements are adverse to our national interest so much so that the Human Development Report, 1999 published by the UNDP has called for a review, a roll back of the agreement on Trade-related Intellectual Property Rights (TRIPs) to protect the health of the people and economies of the developing countries. At page 10, the Report says, "Intellectual property rights under TRIPs agreement need comprehensive review to

redress their perverse effects undermining food security, indigenous knowledge, bio-safety and access to health care". It may be that some people may not agree with the above opinion expressed in the Human Development Report, but that is not the issue. There can be no dispute with the proposition that the power to enter into treaties, agreements and covenants/conventions has, in some cases, serious impact upon our economy, our security and the life and livelihood of our citizens as such, whether beneficial or prejudicial. It is a highly potent power. Many other agreements containing clauses having deleterious effects upon our economy have also been signed during the Uruguay Round of Trade Negotiations. The questions we must address therefore are: to whom does this power belong, whether to the executive or to the parliament? And if it is the power of the executive, whether it is subject to parliamentary control or supervision? What is the impact of treaty-making power conferred by entry 14 of List I of the Seventh Schedule and Article 253 of the Constitution upon the federal structure which we have adopted for ourselves? We may have to incidentally examine what is the position in other countries, whether common law countries or others, and how they are grappling with the issues arising in this behalf. 'Parliament has also an overriding power to make any law for the whole or part of the territory of India for implementing any treaty, agreement or convention with any other country or countries, or any decision made at any international conference, association, or other body [8].'

Hence it is interesting to note here in passing that the Constitution speaks of 'treaty obligations' 'treaties', 'agreements' and even 'decisions' of an international conference, association or body.

Constitutional Directive to Respect Treaty Obligations

As provided by Article 51(c) of the Constitution of India, the State is under a constitutional directive to endeavor to foster respect for international law and treaty obligations in the dealings of the organized peoples with one another. Though the directive

principles of State policy cannot be enforced in the municipal courts, they are nonetheless fundamental in the governance of the country. The definition of 'State' given in Article 12 for part III of the Constitution relating to Fundamental Rights and incorporated in Article 36 for Part IV which contains the Directive Principles of State Policy; is very wide and includes judicial and quasi-judicial authorities also. Therefore, the courts in India are obliged to endeavor to foster respect for international law and obligations under the international treaties.

The constitutional concern for respecting international law including international treaties and conventions is also reflected in Article 253 which, notwithstanding the distribution of legislative powers between the Federal Union and the States, empowers the Parliament to make law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body. The Parliament is under Article 246 read with entry 14 of the Union List of subjects on which it can legislate contained in Schedule VII of the Constitution, empowered to legislate with respect to the subject of entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries. However, barring treaties which require legislation to be made, the international agreements entered into by the Union in exercise of its executive power under Article 73 which are not contrary to law are required to be recognized by the municipal courts. For entering into treaty or bringing it in force for India, it is not a constitutional requirement that the executive should have the support of Parliamentary legislation (*Maganbhai V. Union of India*, AIR 1969 SC 783). The subject of patents, inventions and designs; copyright; trademarks and merchandise marks are assigned to the parliament under entry 49 of the Union List for legislation.

It is well known that the parliament has not so far made any law regulating the procedure concerning the entering into treaties and agreements nor with respect to their

implementation. Equally clearly, no law has been made regulating the way the Government shall sign or ratify the international conventions and covenants. The resulting situation, unfortunately, is that it is left totally to the executive to not only enter into treaties and agreements but also to decide the way they should be implemented, except where such implementation requires making of a law by parliament. And the fact of the matter is that once the executive Government enters a treaty, it would be, ordinarily speaking, quite embarrassing for the parliament to reject the treaty; more so in view of the provisions of the Vienna Convention on the making of treaties which though not yet ratified by India (according to the information given by the concerned Ministries) indicates certain consequences flowing from the conclusion of a treaty. Theoretically speaking, however, it is always open to the parliament to disapprove a treaty entered by the executive whereupon the treaty will have to affect whatever. Moreover, if any treaty or agreement violates any of the provisions of the constitution, it would be totally incompetent and ineffective and even the Vienna Convention would not stand in the way [9].

Article 253 empowers the parliament to make any law, for the whole or any part of the territory of India, for implementing "any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body". Conferment of this power on the Parliament is evidently in line with the power conferred upon it by Entries 13 and 14 of List I. The opening words of the Article "Notwithstanding anything in the foregoing provisions of this Chapter" mean that this power is available to Parliament notwithstanding the division of power between the Centre and States effected by Article 246 read with the Seventh Schedule. In the light of this Article, it is evident, the situation like the one arising in Canada by the 1937 decision afore-mentioned, may not arise.

Effect of Constitutional Provisions on Treaty

India's obligations under international law into the constitutional provision relating to implementation of international law in pronouncing its decision in a case concerning

issues of international law must be analyzed keeping in view the above provisions as follows: Parliament is not so constituted as to discuss the international treaties and agreements in an effective manner. Even votes on account and budget demands involving thousands of crores of rupees are being passed without any discussion. In such a situation, entrusting the Parliament with the power to oversee any and every treaty and agreement and convention being entered or signed by the Government of India would not be practicable and would also not lead to desirable consequences. One of the reasons for the success of European Union and ASEAN as 'economic blocs' is that the decision makers of the constituent countries, i.e. their executive, is by and large free to take decisions in matters of common interest. Ultimately, there should be informed debate and discussion on the issue and that one should not rush with such measures. Under our present system of Parliamentary Government, executive must render continuous accountability to Parliament and that the Parliament can always question the acts and steps taken by the Government.

It is also brought to our notice by certain experts in the field that the present method has worked well in India for the last 50 years except perhaps in the case of WTO treaties (agreements entered during Uruguay Round of GATT Negotiations). It is pointed out that as a matter of fact:

- (1) The views of all concerned ministries are taken into consideration and different interests are identified and reconciled before the Cabinet is requested to approve a treaty. As part of this consideration, the administrative ministry is also required in consultation with and approval from the Department of Legal Affairs of the Ministry of Law to identify the need for any implementing legislation either by way of amendments to the existing law or by the enactment of a new legislation.
- (2) Treaties of importance are first brought to the attention of the Parliament and decision of ratification is kept pending in the absence of a clear decision or approval by Parliament. The comprehensive Treaty on banning the Nuclear Tests (CTBT) is an example.

- (3) Important treaties are placed before the Parliament. In some of the cases, discussion was also held, and resolutions were passed approving such treaties. The Tashkent Declaration 1966, the Treaty of Peace, Friendship and Cooperation between India and USSR 1971 and the Shimla Agreement 1972 are the examples.
- (4) Treaties ceding territory of India are subject to constitutional amendment.

Implementation of India's Obligations under International Treaties

The Legal and Treaties Division advises the Ministry of External Affairs and other Ministries on all issues of international law and treaties, vests bilateral and multilateral documents and texts. It advises on implementation of India's obligations under international conventions, including enactment of legislations and offers advice on a wide range of international legal issues, covering subjects like intellectual property rights, environment, human rights, international humanitarian law, energy security, atomic energy, cyberspace, disarmament, international terrorism, maritime piracy, international trade law, bilateral investment protection agreements, outer space, law of the sea, maritime law, civil aviation, extradition and mutual legal assistance, etc. The objective is to ensure compliance with applicable domestic law related to foreign affairs as well as international legal obligations of India.

The Division also participates in bilateral and multilateral negotiations, negotiations for conclusion of international conventions on various international law issues. During the year 2011–2012, the United Nations General Assembly (Sixth Committee) and its various Sub-Committees, the United Nations Commission on International Trade (UNCITRAL), THE Ad-hoc Committee on International Terrorism, the United Nations Charter Committee, the International Institute for Unification of Law (UNIDROIT), the Hague Conference on Private International Law, the Human Rights Council, the meeting of State parties to the United Nations Convention on the Law of the Sea, the International Seabed Authority, meetings of the Contact Group on Piracy as well as on

disarmament issues. The Division also participates in the annual session of the Asian African Consultative Organization and in bilateral negotiations with various countries on free trade agreements, investment protection agreements and agreements on extradition and mutual legal assistance.

INDIAN JUDICIARY AND INTERNATIONAL LAW

Structure of Judicial System

In India, though the polity is dual, the judiciary is integrated. Therefore, India has an integrated judicial system [10]. At the top of the system is the Supreme Court of India which exercises jurisdiction in different forms, namely, writ jurisdiction, appellate, original, advisory and that conferred under several statutes. At the next level are the High Courts in the various states. While most states have their own High Courts, some states have common High Courts. The High Courts also exercise writ jurisdiction, regular appellate jurisdiction as well as the power of supervision over all the Courts and Tribunals located in their respective States. The third tier is that of the subordinate judiciary at the district-level, which in turn consists of many levels of judges (both on the civil and criminal sides) whose jurisdiction is based on territorial and pecuniary limits. In addition to the subordinate judiciary there are specialized courts and tribunals at the district and state levels to hear and decide matters relating to direct and indirect taxes, labor disputes, service disputes in state agencies, family disputes, motor accident claims as well as consumer complaints to name a few.

The Supreme Court and the High Court's as the courts of records are the custodian of the constitution has an awesome responsibility. Articles 129 and 215 recognize the existence of such power in the Supreme Court and the High Court's as they exercise *inter alia* the sovereign judicial power. The Supreme Court and the High Courts also have writ jurisdictions under Article 32 and 226 of the Indian Constitution, respectively. Thus, they are empowered to provide remedy in the form of writs in case of violation of fundamental rights guaranteed under chapter III of the Constitution of India [11].

Statutory Interpretation and Treaties

In interpreting a statute, the Courts in India would, so far as its language permits, construe it so as not to be inconsistent with the comity of nations or the established rules of International law. If the terms of the legislation are not clear and are reasonably capable of more than one meaning, the international agreements or conventions on the points become relevant, for, there is a *prima facie* presumption that Parliament does not intend to act in breach of International law, including therein specific treaty obligations; and if one of the meanings which can reasonably be ascribed to the legislation is consonant with the treaty obligations and the other is not, the meaning which is consonant is to be preferred. (Kubic Dariusz V. Union of India AIR 1990 SC 605, 615, Saloman V. Commissioner of Customs & Excise (1966) 3 ALL ER 871 (CA)). Where an international agreement is incorporated in an Indian Statute, the statute should be construed with a view to attaining uniformity in the different jurisdictions in which the agreement operates. This would ordinarily be the approach of Courts in India while dealing with the matters relating to intellectual property rights which is warranted by the Constitutional directive to the State to foster respect for International law and treaty obligations (Article 51).

Outside certain exceptional cases, such as a treaty providing for money to a foreign power which must be withdrawn from the consolidated fund of India a treaty affecting the justiciable rights of a citizen or affecting life or liberty or the imposition of a tax which can be done only by legislation, it is competent for the executive to enter treaties binding on India. Where the treaties envisage enactment or change of municipal law, the Courts will not be able to directly implement the treaty provision until it gets incorporated in the municipal law. Therefore, while it would be obligatory on the part of the State under the International law to make provisions in its laws as agreed to under a treaty, the obligation cannot be enforced in a municipal court. However, where the municipal law on the subject is not in any way inconsistent with the treaty obligations undertaken by the Executive, while implementing the municipal

law, that aspect will assume great significance and its implementation will be done by the municipal courts in furtherance of the fulfillment of the obligations undertaken by the Executive which do not require to be followed up by any legislative action.

Courts' Discretionary Powers and Treaties

In the field where the law courts enjoy discretion such as while granting interlocutory reliefs or imposing conditions while making discretionary orders, the Courts can and should keep in view the treaty obligations which bind the State and make orders and impose conditions which are supported by the provisions of binding treaties and conventions. The extent to which rights and obligations of the owners of the intellectual property rights and infringers would get affected in the jurisdictions other than its own can also be one of the parameters to be kept in mind by the municipal court for the sound exercise of its discretionary powers. Therefore, while the role of judiciary is confined to the four corners of the statutory provisions governing the intellectual property rights, its discretionary powers enable it to legitimately consider the ramifications that its discretionary orders would have in the context of the wider horizons of the intellectual property rights.

India has been party to important treaties and conventions on intellectual property, though due to certain internal compulsions, its approach has been somewhat cautious in certain fields. As a member of the WIPO it has important role to play for encouraging creative activity and promoting the protection of intellectual property throughout the world. As member of the WTO the TRIPS Agreement binds it under Article II 2 of the WTO Agreement. It is therefore under a treaty obligation to give effect to the provisions of the TRIPS Agreement for adequate protection of intellectual property rights. The Courts exercising jurisdiction under the intellectual property laws must provide effective and expeditious remedies against any act of infringement of intellectual property rights keeping in view the treaty obligations undertaken by the State in the process of interpretation of the statutory provisions,

exercise of its discretion and granting adequate reliefs against the infringements of the intellectual property rights [12].

International Treaty for Construction of Law

Wherever it is necessary, Indian courts can investigate International Conventions as an external aid for construction of a national legislation [13]. The Supreme Court in *Visakha v. State of Rajasthan*, took recourse to International Convention for construction of domestic law [14]. The Court observed:

In the absence of domestic law occupying the field to formulate effective measures to check the evil of sexual harassment of working women at all work places, the contents of International Conventions and norms are significant for interpretation of the guarantee of gender equality, right to work with human dignity in Articles 14, 15, 19(1)(g) and 21 of the Constitution and the safeguards against sexual harassment implicit therein. Any international convention not inconsistent with the fundamental rights and in harmony with its spirit must be read into those provisions to enlarge the meaning and content thereof, to promote the object of the Constitutional guarantee [15].

Indian constitution embodies the basic framework for the implementation of international treaty obligations undertaken by India under its domestic legal system. According to this, the Government of India has exclusive power to conclude and implement international treaties or agreements. The President of India is vested with the executive power of the Government of India and thus is empowered to enter and ratify international treaties. This does not mean that international law, *ipso facto*, is enforceable upon ratification. This is because Indian constitution follows the “dualistic” theory with respect to incorporation of international law into municipal law. International treaties do not automatically become part of national law in India. They must be incorporated into the legal system by an act of Parliament, which has the legislative powers to enact laws to implement India's obligations under the international treaty.

Thus, in absence of specific domestic legislation enacted by the Parliament, the India's international obligations are not justiciable in Indian Courts. However, a perusal of the jurisprudence shows that a proactive role is being played by Indian judiciary in implementing India's international obligations under International treaties, especially in the field of human rights and environmental law. Thus, Indian judiciary through "judicial activism" fills up of the gaps in the municipal law of India and International law, thereby playing an important role in the implementation of international law at domestic level [16].

CONCLUSION

The domestic status of International Conventions in our country is manifold. In countries which follow 'Monist' School, International can be invoked before or applied by the judiciary. These are so-called self-executing. On the other hand, countries like India follow the 'Dualist' School of Law in respect of implementation of International Law at domestic level in the form of bilateral/multilateral agreements. Therefore, in India, International Law does not automatically form part of National Law. They must, where appropriate, be incorporated into the Legal system by a Legislation made by the Parliament [17].

Treaty Obligations: As indicated right before, the classical theory of international law thought that the 'treaty binds the parties to them, that is the States that have agreed to be bound by their provisions'. This notion was widely reflected in the various provision of constitution of India like Article 51 (c), Article 246-253, etc.

Indian Judiciary, though not empowered to make Legislation, is free to interpret India's obligation under International Law into the Municipal Laws of the country in pronouncing its decision in a case concerning issue of International Law. Judiciary has no specific role in treaty-making as such but when a question arises whether a treaty concluded by the Union violates any of the Constitutional provisions, judiciary comes into the picture. It needs no emphasis that whether it is the Union

Executive or the Parliament, they cannot enter any treaty or take any action towards its implementation which transgresses any of the constitutional limitations. Through 'judicial activism' the Indian judiciary has played a proactive role in implementing India's International obligation under International, especially in the field of Intellectual Property Rights, Human Rights and Environmental concerns [18].

RECOMMENDATIONS

The first thing that should be done by Parliament is to make a law on the subject of "entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries" as contemplated by Entry 14 of List 1 of the seventh Schedule to the constitution. The law should regulate the 'treaty-making power' (which expression shall, for this discussion, include the power to enter into agreements and the implementation of treaties, agreements and conventions). There is an urgent and real need to democratize the process of treaty making. Under our constitutional system, it is not the prerogative (if we can use that expression) of the Executive. It is a matter within the competence of Parliament and it should exercise that power in the interest of the State and its citizens. In a democracy like ours, there is no room for non-accountability. The power of treaty-making is so important and has such far-reaching consequences to the people and to our polity that the element of accountability should be introduced into the process. Besides accountability, the exercise of power must be open and transparent (except where secrecy is called for in national interest) – what was called by President Wilson of USA, "open covenants openly arrived at". We may have already suffered enough by entrusting that power exclusively to the Executive [19]. They do not appear to have been vigilant in safeguarding our interests, at least in some instances. The said power can no doubt be given only to the Union Executive and none else but then the law must clearly delineate the exercise of the power. It must provide for clear and meaningful involvement of Parliament in treaty-making. As has been done in some countries, there must be constituted a

committee of Parliament to whom every treaty/agreement/convention proposed to be signed and/or proposed to be ratified shall be referred. While placing the draft/signed treaty before such committee, a statement setting out the important features of the treaty/agreement, reasons for which such treaty/agreement is proposed to be entered into, the impact of the treaty/agreement upon our country and upon our citizens, should be clearly and fully set out. The committee must decide within four weeks of such reference whether the treaty should be allowed to be signed by the Union Executive without referring the matter for consideration to Parliament or whether it should be referred to Parliament for consideration. It is obvious that such a decision shall have to be taken having regard to the nature of the treaty/agreement and its impact upon our country or on the rights of our citizens. The committee should not have too many members. About 10 to 15 would be adequate but they must be drawn from all political parties in Parliament. They must be elected by both the Houses separately, or jointly, as the case may be. The members once elected, shall continue in the committee for the duration of the life of the House or the cessation of their membership, as the case may be. The committee would be a statutory committee clothed, of course, with all the powers of a Parliamentary Committee.

As a matter of fact, it would equally be desirable if the law made by the Parliament categories the treaties/agreements/conventions/covenants viz., (a) those that the executive can negotiate and conclude on its own and then place the same before both Houses of Parliament by way of information. In this category may be included simple bilateral treaties and agreements which do not affect the economy or the rights of the citizens; (b) those treaties etc. which the executive can negotiate and sign but shall not ratify until they are approved by the Parliament. Here again, a sub-categorization can be attempted: Some treaties may be made subject to approval by default (laying on the table of the House for a particular period) and others which must be made subject to a positive approval by way of a resolution; (c) important, multi-lateral treaties concerning trade, services, investment,

etc. (e.g. recent Uruguay round of treaties/agreements signed in 1994 at Marrakesh), where the Parliament must be involved even at the stage of negotiation. Of course, where a treaty etc. calls for secrecy, or must be concluded urgently, a special procedure may be provided, subject to subsequent Parliamentary approval consistent with the requirements of secretary [20].

REFERENCES

1. Website visited
<http://law.jrank.org/pages/5709/Convention.html> as on 20th March 2018 at 8:45PM
2. The Principle of Sovereign Equality as Embodied in the UN Charter is the Cornerstone of the International Relations between the States. See Articles 2(1) and 2(2) of the UN Charter. See also Anand RP. Sovereignty of States in International Law. In: Anand RP. *Confrontation or Cooperation: International Law and the Developing Countries*. 1987.
3. *Jolly George Vs. Bank of Cochin*, AIR 1980 SC 470.
4. Hilary Charlesworth and others, editors. *The Fluid State: International Law and National Legal Systems*. Sydney, Australia: The Federation Press; 2005.
5. The Vienna Convention on the Law of Treaties defines the term “treaty” for the purposes of the Convention to mean a written international agreement between States governed by International Law. See Article 2(1). The Vienna Convention on the Law of Treaties United Nations, *UN Treaty Series*. 1969; Vol. 1155: 331p.
6. Antonio Cassese. *Modern Constitutions and International Law*. 192. Rec. des COURS 331 (1985-ffl); 331p.
7. Peter Malanczuk. *International Law and Municipal Law*. In: *Akehurst's Modern Introduction to International Law*. Chapter 4. 7th Revised Edn. New York: Routledge; 1997; 65p.
8. The Union List in its entry 14, (Schedule VII of the Constitution).
9. Kadolia Narendra. *A Paradigm Shift in the Role of Domestic Courts in Implementing International Treaty Provisions: An Indian Perspective*. As visited Manupatra on 25th Mar 2018 at 6:51AM

- <http://www.manupatrafast.com/articles/PopOpenArticle.aspx?ID=29c6ccdf-f94e-42e5-8bdd-64f58d2a962c&txtsearch=Subject:%20Miscellaneous>
10. Provisions related to the judiciary in India are contained in Part V („The Union“) under Chapter IV titled “The Union Judiciary” and Part VI (“The States”) under Chapter VI titled “Subordinate Courts” respectively. See Basu DD. *Introduction to the Constitution of India*. 20th Edn. Nagpur: Wadhwa Sales Corporation; 2008.
 11. See D.D. Basu, *ibid.*, n.14.
 12. Thakur Sheetal, Patenting in India, First Edition, 2014, Lakshmi book Publication, p. 272
 13. P.N. Krishanlal v Govt. of Kerala, (1995) Sup. (2) SCC 187; Law Commission of India. A Continuum on the General Clauses Act, 1897 with Special Reference to the Admissibility and Codification of External Aids to Interpretation of Statutes. 183rd Report, Nov 2002; 20p.
 14. AIR 1997 SC 3011
 15. *Ibid.*, n.17, para 7
 16. Agarwal Sunil Kumar. Implementation of International Law in India: Role of Judiciary. *Dean Maxwell & Isle Cohen Doctoral Seminar in International Law Hans & Tamar Oppenheimer Chair in Public International Law Faculty of Law, McGill University*.
 17. *ibid*
 18. The Relationship between International Law and Municipal Law with Brief Account of State Practices (Other than India) in this Regard. Chapter-5, 201–237p.
 19. Krishna Iyer VR. On Accords sans Accountability: The Provision for Parliamentary Ratification of International Treaties Signed on by the Country Needs to be Incorporated in the Constitution. The NCWRC ought to look into this matter. *Ar. Indian National Magazine*. 30 Apr 2002; 19(07).
- Books**
20. Antonio Cassese. *International Law*. 2nd Edn. New York: Oxford University Press; 2005.
 21. Bruno Simma, editor. *The Charter of the United Nations: A Commentary*. 2nd Edn. New York: Oxford University Press; 2002.
 22. Christine Gray. *International Law and the Use of Force*. 2nd Edn. New York: Oxford University Press; 2004.
 23. Harris DJ. *Cases and Materials on International Law*. 6th Edn. London: Sweet & Maxwell; 2004.
 24. Malone David M, editor. *The UN Security Council from the Cold War to the 21st Century*, A Project of the International Peace Academy. Boulder, London: Lynne Rienner Publishers; 2004.
 25. David Schweigman. *The Authority of the Security Council*. Under Chapter VII of the UN Charter: Legal Role and the Role of the International Court of Justice. The Hague, London, Boston: Kluwer Law International; 2001.
 26. Erika De Wet. The Chapter VII: Powers of the United Nations Security Council. Oxford and Portland Oregon: HART Publishing; 2004.
 27. Merrills JG. *International Dispute Settlement*. 3rd Edn. Cambridge: Cambridge University Press; 2002.
 28. Alvarez José E. *International Organizations as Law-makers*. New York: Oxford University Press; 2005.
 29. Shaw Malcolm N. *International Law*. 5th Edn. Cambridge: Cambridge University Press; 2004.
 30. Vera Gowland-Debbas, editor. *National Implementation of United Nations Sanctions: A Comparative Study*. Leiden Boston: Martinus Nijhoff Publishers; 2004.
 31. Vera Gowland-Debbas, Hassiba Hadj-Sahraoui, Mariano Garcia Rubio, editors. *United Nations Sanctions and International Law*. The Hague, London, Boston: Kluwer Law International; 2001.
- Articles**
32. Brian Wood. Strengthening Compliance with UN Arms Embargoes: Key Challenges for Monitoring and Verification. *Amnesty International, AI*. 2006. (Accessed 25th Apr 2006). <http://web.amnesty.org/library/print/ENGIOR400052006> .
 33. Background Paper prepared by the Office of the High Commissioner for Human Rights for the Meeting of the Executive

- Committee on Humanitarian Affairs. The Human Rights Impact of Economic Sanctions on Iraq. *Campaign against Sanctions in Iraq*, Cambridge Solidarity with Iraq, 5th Sep 2000. (Accessed 2nd Jan 2006).
<http://www.casi.org.uk/info/undocs/sanct31.pdf#search=economic%20sanctions>.
34. Boris Kondoch. The Limits of Economic Sanctions under International Law: The Case of Iraq. *Campaign against Sanctions in Iraq*, CASI-Cambridge Solidarity with Iraq, 2001; 7: 267–294p. (Accessed 2nd Jan 2006).
<http://www.casi.org.uk/info/kondoch01.pdf>.
35. Joy Gordon. Economic Sanctions, Just War Doctrine, and the “Fearful Spectacle of the Civilian Dead”. *Cross Current Articles*, Cross Currents. (Accessed 8th Nov 2005).
<http://www.crosscurrents.orggordon.htm>.
36. Halliday Denis J. Economic Sanctions on the People of Iraq: First Degree Murder or manslaughter? Selected Papers from Madrid International Conference “Interventionism against International Law: From Iraq to Yugoslavia. Recoursing to Economic Sanctions and War in the New World Order, CSCA web. 20–21 Nov 1999. Nodo50.org, (accessed 3rd Dec 2005).
http://www.nodo50.org/cscs/english/libro_iraq-yug.html.
37. Alexander Orakhelashvili. The Impact of Peremptory Norms on the Interpretation and Application of United Nations Security Council Resolutions. *European Journal of International Law, EJIL*. 2005; 16(59). (Accessed through Lexis Nexis 23rd Feb 2006).
38. Lutz Oette. A Decade of Sanctions against Iraq: Never Again! The End of Unlimited Sanctions in the Recent Practice of the UN Security Council. *European Journal of International Law, EJIL*. 2002; 13(1): 93–103p.
<http://ejil.org/journal/Vol13/No1/130093.pdf>.
39. Matthew Craven. Humanitarianism and the Quest for Smarter Sanctions. *European Journal of International Law, EJIL*. 2002; 13(1): 43–61p. (Accessed 28th Oct 2005).
<http://www.ejil.org/journal/vol13/No1/>.
40. Sebastian Bohr. Sanctions by the United Nations Security Council and the European Union. *European Journal of International Law, EJIL*. 1993; 4: 256–268p. (Accessed 28th Oct 2005).
<http://www.ejil.org/journal/vol4/No2/art7.html>.
41. Michael Reisman W, Stevick Douglas L. The Applicability of International Law Standards to United Nations Economic Sanctions Programmes. *European Journal of International Law, EJIL*. 1998; 9(1): 1–35p. (86-141)
<http://ejil.org/journal/Vol9/No1/art4.pdf>.
42. Aristotle Constantinidis. An Overview of Legal Restraints on Security Council Chapter VII Action with a Focus on Post Conflict Iraq. *European Society of International Law, ESIL*. (Accessed 3rd Dec 2006)
<http://www.esilsedi.org/english/pdf/Constantinides.PDF>.
43. David Cortright, Lopez George A, Linda Gerber. Refinement and Reform in UN Sanctions: The State of the Art. Paper delivered at the seminar “*Sanctions and the Political Economy of Crises*”, Fourth Freedom Forum, co-organized by the Center for International Studies and Research and the International Peace Academy, Paris. 22–23 Nov 2001. (Accessed 24th Apr 2006).
<http://www.fourthfreedom.org/pdf/ParisPaper.pdf>.

Cite this Article

Kshamaa. Domestic Status of International Conventions on Treaty Law and Practices in India. *Journal of Corporate Governance and International Business Law*. May 2018; 1(1): 18–28p.