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Role of International Human Rights Law in Protecting Marginalized Communities

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ABSTRACT

This paper explores the role of international human rights law in protecting marginalized communities in India, focusing on the country's obligations under international treaties and the challenges it faces in effectively implementing human rights protections. India, as a signatory to numerous international human rights instruments, is bound to uphold the rights of its vulnerable populations, including Dalits, women, indigenous communities, and religious minorities. However, the paper highlights significant gaps in the enforcement of these rights, such as institutional inefficiencies, inadequate resources, political resistance, and persistent social discrimination. The paper examines the constitutional provisions, key domestic laws, and the role of national human rights institutions in safeguarding the rights of marginalized groups. Despite the existence of legal frameworks, implementation remains inconsistent, especially in rural and remote areas where caste-based violence, gender discrimination, and other forms of exclusion are prevalent. The paper also proposes several measures to strengthen the enforcement of human rights, including enhancing institutional capacity, improving legal aid and awareness programs, addressing social resistance, and ensuring greater political accountability. By examining these factors, the paper argues that while India has made progress in human rights protection, a more comprehensive and inclusive approach is needed to ensure that marginalized communities are fully protected under international human rights law.

Keywords: *International human rights law, marginalized communities, India, enforcement challenges, legal frameworks.*

I. INTRODUCTION

International human rights law plays a pivotal role in safeguarding marginalized communities across the globe, including in India, where historical inequalities continue to persist. Marginalization, whether based on caste, religion, gender, ethnicity, disability, or economic status, has led to systemic discrimination, social exclusion, and human rights violations. While the Indian legal system provides various constitutional and statutory protections, the effective implementation of international human rights principles remains crucial in bridging legal and

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policy gaps. The role of international human rights law in India is particularly significant in reinforcing domestic legal frameworks, ensuring state accountability, and providing mechanisms for redress when national systems fall short.³

India, as a signatory to key international human rights treaties, has committed to upholding principles of equality, dignity, and non-discrimination. The Universal Declaration of Human Rights (UDHR) 1948, although not legally binding, has influenced India's constitutional provisions, particularly Article 14 (Right to Equality), Article 15 (Prohibition of Discrimination), and Article 21 (Right to Life and Personal Liberty). Furthermore, India has ratified the International Covenant on Civil and Political Rights (ICCPR) 1966 and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) 1966, which mandate the protection of civil liberties, socio-economic rights, and equal access to opportunities.⁴

In addressing caste-based discrimination, India has implemented comprehensive legal protections, largely influenced by international human rights instruments. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, supplemented by amendments in 2015 and 2018, criminalizes acts of violence and discrimination against Dalits and Adivasis. The Act aligns with India's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) 1965, as caste-based discrimination has been recognized as a form of racial discrimination by the United Nations Committee on the Elimination of Racial Discrimination (2009). Despite these legal safeguards, marginalized communities continue to face social ostracization, economic deprivation, and systemic exclusion, necessitating stronger enforcement of international human rights norms.⁵

Gender inequality remains a critical human rights issue in India, despite constitutional and legislative protections. India has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979, committing to gender equality and protection from discrimination. Domestically, the Protection of Women from Domestic Violence Act, 2005, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, and the Prohibition of Child Marriage Act, 2006 are key legislative measures aligned with international commitments. However, the persistence of gender-based violence, honor killings, and workplace discrimination indicates a gap between legal frameworks and on-ground

³ Jayshree Bajoria, “‘They Say We’re Dirty’” Human Rights Watch (2014).

⁴ United Nations, “The Foundation of International Human Rights Law” United Nations *available at*: <https://www.un.org/en/about-us/udhr/foundation-of-international-human-rights-law> (last visited January 30, 2025).

⁵ Ibid.

realities, reinforcing the need for stronger implementation mechanisms under both national and international law.⁶

Religious minorities in India, including Muslims, Christians, Sikhs, and others, have been protected under Article 25 (Freedom of Religion) and Article 29-30 (Cultural and Educational Rights of Minorities) of the Indian Constitution. The National Commission for Minorities Act, 1992, established the National Commission for Minorities (NCM) to safeguard their rights. Internationally, India is bound by Article 18 of the ICCPR, which guarantees the right to freedom of thought, conscience, and religion. However, incidents of communal violence and religious intolerance highlight the challenges in fully realizing these protections, necessitating a more proactive approach from both the judiciary and international human rights bodies.⁷

The protection of indigenous communities, or Adivasis, is another pressing concern, given their historical displacement and socio-economic marginalization. The Forest Rights Act, 2006, grants Scheduled Tribes and other forest dwellers rights over forest land and resources. This aligns with the principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007, which India endorsed. However, the implementation of land rights and protection from displacement due to industrial and infrastructural projects remains inadequate, often leading to human rights violations.

(A) Objectives of the study

1. To analyze the international human rights legal framework applicable to marginalized communities in India.
2. To assess the effectiveness of India's domestic legal system in implementing international human rights obligations.
3. To identify challenges and gaps in the enforcement of international human rights law in India.
4. To recommend policy measures and legal reforms for strengthening the protection of marginalized communities in India.

(B) Research Methodology

This study adopts a doctrinal research methodology, which primarily involves an in-depth analysis of legal texts, statutes, case law, international treaties, and scholarly writings. The

⁶ "Measures for Gender Equality and Empowerment of Women," *available at*: <https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1779252> (last visited January 30, 2025).

⁷ Mariya Paliwala, "Cultural and Educational Rights: Articles 29-30 Under Indian Constitution" iPleaders, 2022 *available at*: <https://blog.ipleaders.in/cultural-and-educational-rights/> (last visited January 30, 2025).

research is conducted through a qualitative examination of primary sources such as constitutional provisions, legislative enactments, judicial precedents, and international human rights instruments including the UDHR, ICCPR, ICESCR, CEDAW, and CERD. Secondary sources, including books, journal articles, reports by human rights organizations, and UN documents, are also examined to provide critical insights. This method enables a comprehensive legal analysis of the role of international human rights law in protecting marginalized communities in India while identifying gaps in enforcement and proposing legal reforms.

(C) Review of literature

- a. **Baxi, U. (2002).**⁸ In this article, Baxi examines the evolving role of human rights in post-colonial India, focusing on the intersection between colonial legacies and human rights discourses. He delves into the complexities of incorporating international human rights law within the Indian legal system, emphasizing the challenges posed by India's diverse social structures and the persistence of social inequalities. The article critiques the implementation of human rights in India and explores the tensions between constitutional guarantees and ground-level realities.
- b. **Chakraborty, A. (2015).**⁹ Chakraborty provides an in-depth analysis of how India's legal framework addresses caste-based discrimination. The article discusses the historical context of caste discrimination, its continued manifestation in contemporary society, and the role of international human rights law in combating this injustice. The author reviews key national legislation, such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and evaluates its effectiveness in curbing caste-based violence and discrimination.
- c. **Gupta, S. (2017).**¹⁰ Gupta's article examines the intersection of gender equality and international human rights law in the Indian context. The paper explores India's obligations under global human rights frameworks, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and how these obligations have been integrated into the Indian legal system. Gupta critically assesses the challenges in ensuring gender justice, considering the socio-cultural barriers, legal gaps, and institutional weaknesses that hinder the implementation of gender equality in India.

⁸ Baxi, U. (2002). "The Role of Human Rights in Post-Colonial India." *Indian Journal of Human Rights and the Law*, 14(1), 23-39.

⁹ Chakraborty, A. (2015). "Human Rights and Caste-Based Discrimination: An Overview of the Indian Legal Framework." *Journal of Social Justice and Law*, 18(4), 245-267.

¹⁰ Gupta, S. (2017). "Gender Equality and International Human Rights Law: The Case of India." *International Journal of Human Rights*, 21(2), 102-121.

- d. **Das, S. (2016).**¹¹ In this article, Das focuses on the rights of indigenous peoples in India, particularly within the framework of international human rights law. The paper examines the challenges faced by indigenous communities in asserting their rights to land, culture, and autonomy, despite India's ratification of international conventions such as the International Labour Organization's Convention No. 169. The article discusses the tension between development projects and indigenous land rights, highlighting the inadequate protection offered by domestic law and the struggles faced by these communities in accessing justice.
- e. **Menon, S. (2020).**¹² Menon analyzes the impact of international human rights law on the protection of religious and ethnic minorities in India. The article assesses how India's legal framework incorporates international human rights instruments such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR), with a particular focus on the protection of minorities from discrimination and violence. Menon explores the gaps between India's international commitments and domestic implementation, stressing the importance of addressing social and political challenges to ensure meaningful protection for these vulnerable groups.

II. INTERNATIONAL HUMAN RIGHTS FRAMEWORK

The protection of marginalized communities in India is significantly influenced by international human rights law. Various international treaties and conventions establish legal norms that oblige states to prevent discrimination, promote equality, and ensure access to justice. India, as a signatory to several of these treaties, has incorporated many of these principles into its constitutional and legislative framework. However, gaps remain in enforcement, highlighting the need for stronger legal mechanisms and policy interventions.¹³

1. The Universal Declaration of Human Rights (UDHR)

The right to equality and non-discrimination is enshrined in Article 1 and Article 2 of the UDHR, which state that all human beings are born free and equal in dignity and rights and that no one shall be discriminated against on the basis of race, sex, religion, or any other status. These principles are reflected in Article 14 of the Indian Constitution, which guarantees equality

¹¹ Das, S. (2016). "Indigenous Rights and International Human Rights Law: Challenges in the Indian Context." *The International Journal of Law and Political Science*, 9(3), 189-205.

¹² Menon, S. (2020). "The Impact of International Human Rights Law on Indian Minority Protection." *Journal of International Human Rights Law*, 15(2), 213-236.

¹³ "India's International Obligations Form the Basis for a new Equality Law," Centre for Law & Policy Research, 2021 available at: <https://clpr.org.in/blog/indias-international-obligations-form-the-basis-for-a-new-equality-law/> (last visited January 30, 2025).

before the law, and Article 15, which prohibits discrimination on the grounds of caste, sex, or religion.¹⁴

The UDHR also recognizes the right to life, liberty, and security (Article 3), which aligns with Article 21 of the Indian Constitution, guaranteeing the right to life and personal liberty. This provision has been interpreted expansively by Indian courts to include rights such as healthcare, education, and a dignified standard of living, crucial for marginalized communities.

Furthermore, the right to work and equal pay (Article 23) and the right to education (Article 26) are essential protections that have influenced laws such as the Equal Remuneration Act, 1976, which ensures gender pay parity, and the Right of Children to Free and Compulsory Education Act, 2009, which mandates universal education.

Despite these constitutional and legislative commitments, marginalized communities in India continue to face barriers in accessing these rights, particularly in rural and economically backward regions. The UDHR remains a guiding framework for holding the state accountable in fulfilling its human rights obligations.¹⁵

2. International Covenant On Civil And Political Rights (ICCPR)

The International Covenant on Civil and Political Rights (ICCPR), adopted in 1966, is a legally binding treaty that guarantees fundamental civil and political rights. India ratified the ICCPR in 1979, thereby committing to implement its provisions through domestic laws.

Article 6 of the ICCPR guarantees the right to life, which corresponds with Article 21 of the Indian Constitution. This has been interpreted to include protection from custodial torture, police brutality, and extrajudicial killings, which disproportionately affect Dalits, Adivasis, and religious minorities.¹⁶

Article 7 prohibits torture and cruel, inhuman, or degrading treatment or punishment. In response, India has enacted The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, which criminalizes acts of violence and discrimination against Dalits and Adivasis. However, implementation challenges continue, with low conviction rates and delayed justice delivery.¹⁷

¹⁴ United Nations, “Universal Declaration of Human Rights” United Nations *available at*: <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (last visited January 30, 2025).

¹⁵ Christopher McCrudden, “Human Dignity and Judicial Interpretation of Human Rights,” 19 *European Journal of International Law* 655–724 (2008).

¹⁶ Bhumika Indulia, “Custodial Torture in India: Intersection of Criminal Law and Constitutional Rights” *SCC Times*, 2024 *available at*: <https://www.sconline.com/blog/post/2024/03/23/custodial-torture-in-india-intersection-of-criminal-law-and-constitutional-rights/> (last visited January 30, 2025).

¹⁷ *Ibid*.

Article 14 guarantees the right to equality before courts and tribunals, which aligns with Article 39A of the Indian Constitution, providing for equal access to justice. To facilitate this, the Legal Services Authorities Act, 1987, ensures free legal aid to marginalized groups, yet many remain unaware of their rights due to illiteracy and systemic exclusion.

Article 18 guarantees freedom of thought, conscience, and religion, a principle echoed in Article 25 of the Indian Constitution, which grants individuals the right to freely profess, practice, and propagate religion. However, religious minorities in India continue to face restrictions, particularly through anti-conversion laws in several states, which often target Christian and Muslim communities.¹⁸

3. International Covenant on Economic, Social And Cultural Rights (ICESCR)

The International Covenant on Economic, Social, and Cultural Rights (ICESCR), adopted in 1966, recognizes rights essential for economic justice and social welfare. India ratified the ICESCR in 1979, incorporating its provisions into various socio-economic policies and laws.¹⁹

Article 11 of the ICESCR recognizes the right to an adequate standard of living, including adequate food, clothing, and housing. This aligns with Directive Principles of State Policy (DPSP) under Articles 38 and 39 of the Indian Constitution, which require the state to promote the welfare of the people. Programs such as the Public Distribution System (PDS) and the National Food Security Act, 2013, aim to ensure food security for marginalized communities, though corruption and inefficiencies persist.

Article 13 guarantees the right to education, reflected in India's Right to Education (RTE) Act, 2009, which mandates free and compulsory education for children aged 6-14 years. Despite this, dropout rates remain high among Dalits, Adivasis, and Muslim children, often due to economic hardships and social discrimination.

Article 7 of the ICESCR guarantees fair wages and safe working conditions, which corresponds with the Minimum Wages Act, 1948, and the Maternity Benefit Act, 1961. However, wage disparities and unsafe work environments remain rampant, particularly for women and informal workers.

While India has made progress in implementing socio-economic rights, budgetary constraints

¹⁸ "Article 25: Freedom of conscience and free profession, practice and propagation of religion," Constitution of India, 2022 *available at*: <https://www.constitutionofindia.net/articles/article-25-freedom-of-conscience-and-free-profession-practice-and-propagation-of-religion/> (last visited January 30, 2025).

¹⁹ "International Covenant on Economic, Social and Cultural Rights," OHCHR *available at*: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights> (last visited January 30, 2025).

and policy shortcomings have limited their effective realization. Stronger enforcement mechanisms and greater accountability are needed to fulfill ICESCR commitments.

4. Convention On The Elimination Of Racial Discrimination (CERD)

The Convention on the Elimination of All Forms of Racial Discrimination (CERD), adopted in 1965, aims to eliminate racial and caste-based discrimination. Although India ratified CERD in 1968, it has contested the applicability of caste-based discrimination under CERD, arguing that caste is not equivalent to race.²⁰

Despite this, CERD has repeatedly recommended that India strengthen protections against caste discrimination. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, aligns with Article 2 of CERD, which obliges states to take measures to eliminate racial discrimination in all forms. However, caste-based violence remains a significant challenge in India, requiring more robust enforcement and awareness programs.

5. Convention On The Elimination Of All Forms Of Discrimination Against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979, is a landmark treaty that mandates gender equality in all spheres. India ratified CEDAW in 1993, leading to several legal reforms, including the Protection of Women from Domestic Violence Act, 2005, and the Sexual Harassment at Workplace Act, 2013.²¹

Article 11 of CEDAW emphasizes equal employment opportunities, reflected in India's Equal Remuneration Act, 1976. However, wage gaps, workplace harassment, and low workforce participation continue to affect women.

Despite legal advancements, gender discrimination remains widespread, particularly in rural and conservative communities. Strengthening CEDAW compliance through policy implementation, education, and stricter legal enforcement is essential to achieving gender equality in India.

III. INDIA'S OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS LAW

India, as a sovereign nation, is bound by its commitments under various international treaties and conventions to uphold human rights and safeguard the dignity of its citizens. International human rights law plays a significant role in shaping the domestic legal framework, influencing

²⁰ "International Convention on the Elimination of All Forms of Racial Discrimination," Main Page *available at*: <https://legal.un.org/avl/ha/cerd/cerd.html> (last visited January 30, 2025).

²¹ "Convention on the Elimination of All Forms of Discrimination against Women," *available at*: <https://www.un.org/womenwatch/daw/cedaw/> (last visited January 30, 2025).

national policies, and holding states accountable for their human rights obligations. India's engagement with international human rights law is multifaceted, involving the ratification of key international treaties, alignment of constitutional provisions with international standards, and the functioning of national human rights bodies.²²

(A) Ratification of Key International Treaties

India's commitment to international human rights law is primarily reflected in its ratification of key international treaties and conventions. India is a party to several important international human rights instruments, which reflect its obligations to protect and promote human rights in its domestic sphere. Among the most significant treaties India has ratified are the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). These foundational treaties, adopted under the United Nations framework, establish comprehensive human rights standards and obligate signatories, including India, to respect, protect, and fulfill the rights outlined in the declarations.²³

The Universal Declaration of Human Rights (UDHR), adopted in 1948, serves as a universal standard for human dignity and rights, outlining fundamental freedoms and rights applicable to all people, regardless of nationality or status. Though not a legally binding treaty, the UDHR has formed the basis for numerous international and regional human rights treaties, and its principles are widely recognized in global human rights discourse.

India ratified the International Covenant on Civil and Political Rights (ICCPR) in 1979, which enshrines rights such as the right to life, liberty, and security of person, the right to fair trial, freedom of speech, and freedom from torture or cruel treatment. These rights directly impact marginalized communities, ensuring protection against violations and advocating for equality before the law.²⁴

In parallel, India ratified the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in 1979, which obligates state parties to progressively realize rights related to work, education, health, and an adequate standard of living. This treaty supports the socio-economic rights of marginalized communities in India, particularly Dalits, Adivasis, and women, who

²² Alice Venn, "Rendering International Human Rights Law Fit for Purpose on Climate Change," 23 *Human Rights Law Review* (2023).

²³ "India's International Obligations Form the Basis for a new Equality Law," Centre for Law & Policy Research, 2021 *available at*: <https://clpr.org.in/blog/indias-international-obligations-form-the-basis-for-a-new-equality-law/> (last visited January 30, 2025).

²⁴ "FAQ: The Covenant on Civil & Political Rights (ICCPR)," American Civil Liberties Union, 2006 *available at*: <https://www.aclu.org/documents/faq-covenant-civil-political-rights-iccpr> (last visited January 30, 2025).

often face barriers in accessing quality education, healthcare, and employment opportunities.²⁵

Beyond these fundamental treaties, India has also ratified conventions specifically tailored to protect the rights of certain marginalized groups. The Convention on the Elimination of All Forms of Racial Discrimination (CERD), which India ratified in 1967, is central to the protection of Dalits and Adivasis. CERD prohibits racial discrimination in all its forms and compels states to take measures to eliminate discrimination based on race, color, descent, or national or ethnic origin. Though the treaty does not explicitly mention caste, the interpretation of “descent” has been extended to include caste-based discrimination, which remains a pervasive issue in India.²⁶

India’s ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993 and the Convention on the Rights of the Child (CRC) in 1992 further reflects the country's commitment to addressing gender and child rights issues. CEDAW mandates that state parties adopt legal and policy measures to eliminate discrimination against women, ensuring their equality in social, political, and economic spheres.

India is also a signatory to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which, though non-binding, calls on states to protect the rights of indigenous peoples, including their rights to land, culture, and self-determination. The International Labour Organization (ILO) Convention No. 169, though not ratified by India, also provides guidance on indigenous rights and the protection of tribal communities.²⁷

(B) Constitutional Provisions and Domestic Law Alignment

India’s Constitution, adopted in 1950, provides a robust framework for the protection of human rights, embedding fundamental rights that align with international human rights standards. The Constitution guarantees a set of rights to all citizens, regardless of caste, religion, or gender, through Part III (Fundamental Rights), which includes the right to equality, freedom of speech, and protection from exploitation. These rights reflect the core principles of international human rights law, such as non-discrimination, dignity, and equality before the law.²⁸

Article 14 of the Indian Constitution guarantees equality before the law, prohibiting

²⁵ Richard, “International Covenant on Economic, Social and Cultural Rights” Tackling Violence against Women, 2016 *available at*: <https://blogs.lse.ac.uk/vaw/int/treaty-bodies/international-covenant-on-economic-social-and-cultural-rights/> (last visited January 30, 2025).

²⁶ *Ibid.*

²⁷ “UBC,” *available at*: https://indigenousfoundations.arts.ubc.ca/un_declaration_on_the_rights_of_indigenous_peoples/ (last visited January 30, 2025).

²⁸ Diva Rai, “Human Rights and Constitution of India” iLeaders, 2020 *available at*: <https://blog.ipleaders.in/human-rights-constitution-india/> (last visited January 30, 2025).

discrimination on the grounds of religion, race, caste, sex, or place of birth. This provision closely mirrors the right to equality and non-discrimination under the UDHR and the ICCPR. Article 15 further expands this protection by prohibiting discrimination on the grounds of religion, race, caste, sex, or place of birth and allows for affirmative action measures to promote the interests of disadvantaged groups, including Dalits and Adivasis.²⁹

Article 21 of the Constitution guarantees protection of life and personal liberty, a fundamental right that echoes the provisions of the ICCPR. This provision ensures that every person, including marginalized groups, is entitled to protection from arbitrary detention, torture, or inhuman treatment.

India's Directive Principles of State Policy (Part IV of the Constitution), while not enforceable in a court of law, provide additional guidance to the government on policies aimed at securing social and economic rights. These principles mandate the state to work towards ensuring an adequate standard of living, health, education, and employment for all citizens, particularly disadvantaged groups. These provisions reflect India's obligations under the ICESCR and underline the importance of ensuring that marginalized communities have access to basic human rights and services.³⁰

(C) National Human Rights Commission and Its Role

The National Human Rights Commission (NHRC) of India, established in 1993, plays a critical role in ensuring that India complies with its international human rights obligations and in safeguarding the rights of marginalized communities. The NHRC is an independent body tasked with investigating human rights violations, raising awareness about human rights, and making recommendations to the government for policy and legal reforms.

The NHRC operates within the framework of both the Indian Constitution and India's international human rights commitments. It monitors the implementation of domestic laws that protect the rights of vulnerable groups, advocates for the adoption of international human rights standards in national legislation, and engages with international human rights bodies to report on India's progress.

The NHRC's role extends to investigating violations of human rights committed by both state and non-state actors. This includes addressing issues such as caste-based discrimination, violence against women, child labor, and the rights of indigenous communities. The NHRC is

²⁹ Ibid.

³⁰ Subodh Asthana, "Directive Principles of State Policy: An Explanation of Part IV of Constitution" iPleaders, 2019 available at: <https://blog.ipleaders.in/directive-principles-state-policy/> (last visited January 30, 2025).

empowered to intervene in matters relating to human rights violations, provide recommendations to the government, and ensure that justice is delivered to victims of human rights abuses.

While the NHRC plays a significant role in the promotion and protection of human rights in India, it faces challenges related to the effective implementation of its recommendations, limited resources, and occasional political interference. Nonetheless, the NHRC remains a key mechanism through which India can be held accountable for its human rights obligations, both under national law and international treaties.³¹

IV. THE ROLE OF INTERNATIONAL HUMAN RIGHTS LAW IN PROTECTING MARGINALIZED COMMUNITIES

International human rights law has long served as an essential tool in the protection of marginalized communities, offering global standards that countries like India are obligated to adhere to. In India, marginalized communities such as Dalits, Adivasis, women, and religious minorities have faced centuries of discrimination, social exclusion, and violence. While domestic legal measures have been enacted to address these issues, the role of international human rights law is pivotal in reinforcing these protections and ensuring that these communities receive equal treatment and protection under the law.³²

(A) Empowerment of Dalits and Other Backward Classes

Dalits, historically referred to as "untouchables," form one of the most marginalized and oppressed communities in India. Despite constitutional provisions designed to provide social and economic empowerment, caste-based discrimination remains deeply entrenched in Indian society. International human rights law has played a critical role in pushing for the recognition and protection of Dalits' rights at the global level. India's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), ratified in 1967, are particularly relevant here. Article 1 of CERD defines racial discrimination in a broad sense, covering discrimination based on race, color, descent, and national or ethnic origin. While the Convention does not specifically mention caste, the interpretation of "descent" has been extended to include caste-based discrimination. This broader interpretation has been crucial in framing caste discrimination as a human rights violation on the international stage.

³¹ Vajiram & Ravi, "NHRC - National Human Rights Commission, Powers, Functions" Vajiram & Ravi, 25 December 2024.

³² hlr, "Title VII and Caste Discrimination" Harvard Law Review, 2021 *available at*: <https://harvardlawreview.org/forum/vol-134/title-vii-and-caste-discrimination/> (last visited January 30, 2025).

India's obligations under CERD have led to calls for stronger measures to combat caste-based discrimination and violence, particularly in rural areas where the caste system's influence is more pronounced. The United Nations Committee on the Elimination of Racial Discrimination (CERD Committee) has periodically urged India to adopt more robust measures to protect Dalits from violence and discrimination. Additionally, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, adopted in 1963, also serves as an important instrument in emphasizing that caste-based discrimination must be eradicated as part of the global effort to eliminate racial discrimination.³³

(B) Women's Rights and Gender Equality

Women in India, particularly those from marginalized communities, face multiple layers of discrimination based on gender, caste, and class. International human rights law has been instrumental in advocating for gender equality and the protection of women's rights globally. India's commitment to promoting gender equality is reflected in its ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993. CEDAW, often referred to as an international bill of rights for women, outlines specific measures that state parties must take to eliminate gender-based discrimination and promote women's empowerment. The Convention provides for the protection of women's rights in areas such as health, education, employment, and marriage, all of which are essential to overcoming the systemic oppression faced by women in India.³⁴

In particular, the right to equality (Article 2 of CEDAW) is crucial in addressing issues such as gender-based violence, child marriage, dowry, and discrimination in the workplace. India's legal framework for addressing women's rights includes several domestic laws, such as the Protection of Women from Domestic Violence Act, 2005, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013. These laws align with CEDAW's provisions, seeking to address violence and discrimination against women. However, the challenge lies in the enforcement and implementation of these laws, as well as in tackling deeply ingrained patriarchal attitudes that perpetuate gender inequality.

International human rights instruments like the UDHR (Article 21) and CEDAW emphasize the right of women to participate fully in the political, economic, and cultural life of the country.

³³ "Committee on the Elimination of Racial Discrimination Concluding Observations on Caste," Broken People: Caste Violence Against India's Untouchables (Human Rights Watch Report, 1999) *available at* <https://www.hrw.org/reports/1999/india/India994-20.htm> (last visited January 30, 2025).

³⁴ Etienne Lwamba et al., "Strengthening women's empowerment and gender equality in fragile contexts towards peaceful and inclusive societies: A systematic review and meta-analysis," 18 Campbell systematic reviews e1214 (2022).

Moreover, the International Covenant on Economic, Social, and Cultural Rights (ICESCR) recognizes women's right to work, the right to health, and the right to an adequate standard of living, all of which directly affect marginalized women. These global norms serve as a framework for national policies and programs aimed at reducing gender-based discrimination, including reservations in education and employment for women from marginalized groups. While significant progress has been made in empowering women in India, the effective application of international human rights law remains crucial to furthering these gains, especially in rural and underserved areas where women's rights continue to be violated.³⁵

(C) Indigenous Communities and Tribal Rights

Indigenous communities and tribal populations in India, particularly Adivasis, often face systemic neglect and exploitation. These communities are disproportionately affected by issues such as displacement due to development projects, lack of access to education and healthcare, and violence by state and non-state actors. International human rights law plays a significant role in the recognition and protection of the rights of indigenous peoples. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted in 2007, sets out specific rights for indigenous peoples, including the right to self-determination, the right to maintain and strengthen their distinct cultural identities, and the right to free, prior, and informed consent before being subjected to development projects that affect their lands and resources.³⁶

India's obligations under UNDRIP, though not legally binding, have guided domestic policies that address the rights of Adivasis. For instance, the Forest Rights Act, 2006, was enacted to recognize and vest forest rights in indigenous communities, particularly tribal groups. This law aligns with the provisions of UNDRIP, specifically regarding the rights of indigenous peoples to their ancestral lands. However, the implementation of the Forest Rights Act has faced challenges, with numerous cases of displacement continuing despite the law's provisions. The struggle for tribal rights in India underscores the importance of international human rights law in holding the Indian government accountable for the protection of indigenous communities.³⁷

(D) Protection Of Religious and Ethnic Minorities

Religious and ethnic minorities in India, particularly Muslims, Christians, Sikhs, and other groups, face numerous challenges, including discrimination, violence, and exclusion.

³⁵ "Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979," OHCHR *available at*: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women> (last visited January 30, 2025).

³⁶ poorva A A, "Indigenous Communities: Human Rights and Right to Development-Exploring the Indian Context," Volume 3 Issue 3 ELECTRONIC JOURNAL OF SOCIAL AND STRATEGIC STUDIES 289–313.

³⁷ CJP Editor, "Stop forced eviction of Adivasis & Forest dwellers: UN to India" CJP, 17 September 2019.

International human rights law has a critical role in safeguarding the rights of these minorities, as it prohibits discrimination on the basis of religion, ethnicity, and other forms of identity. The International Covenant on Civil and Political Rights (ICCPR), to which India is a party, guarantees the right to freedom of religion (Article 18), protection from religious discrimination (Article 26), and the right to participate in the cultural, social, and political life of the country (Article 27). These provisions are particularly important in the Indian context, where religious and ethnic minorities often experience violence and discrimination, particularly during periods of political or religious unrest.³⁸

The protection of religious and ethnic minorities in India is also supported by the UDHR, which affirms the right to freedom of belief and religion (Article 18). The Indian legal system, although based on the principles of secularism and religious freedom, faces challenges in translating these principles into reality. The enactment of laws such as the National Commission for Minorities Act, 1992, and the Constitution's provisions for affirmative action have attempted to address the needs of minorities. However, religious and ethnic minorities continue to face discrimination in employment, education, and political representation.

International human rights law, particularly the ICCPR and the UDHR, provides a framework for India to ensure that religious and ethnic minorities are protected from violence, discrimination, and exclusion. Additionally, the role of international human rights organizations in monitoring violations and advocating for the rights of minorities is vital in ensuring that the Indian state upholds its international obligations.

V. CASE LAWS

K.K. Verma v. Union of India³⁹ In this case, the Supreme Court addressed the issue of untouchability and caste-based discrimination. The petitioner, K.K. Verma, argued that the practice of untouchability was a violation of the constitutional guarantee of equality under Article 15. The Court held that caste-based discrimination could not be justified under any circumstances, marking an important step in the legal recognition of untouchability as an unconstitutional practice.

People's Union for Civil Liberties v. Union of India⁴⁰ This case was a significant ruling by the Supreme Court in relation to human rights protections for marginalized groups. The Court

³⁸ "Redefining Protection: Challenges and Solutions in Safeguarding Religious Minorities within International and Regional Legal Frameworks" *The Age of Human Rights Journal* available at: <https://revistaselectronicas.ujaen.es/index.php/TAHRJ/article/view/8659/8936> (last visited January 30, 2025).

³⁹ *K.K. Verma v. Union of India* (1954) AIR 1954 SC 520

⁴⁰ *People's Union for Civil Liberties v. Union of India* (1997) 3 SCC 433

considered the impact of preventive detention laws and the abuse of power by the authorities. It ruled that individuals, particularly those from vulnerable communities, have a right to not be subjected to arbitrary detention or abuse under any pretext, enforcing rights guaranteed under Article 21 (Protection of Life and Personal Liberty).

Indra Sawhney v. Union of India⁴¹ Also known as the Mandal Commission case, the Supreme Court examined the constitutionality of reservations for Other Backward Classes (OBCs) in government jobs. The Court upheld the implementation of the OBC reservation policy and recognized the importance of affirmative action to promote social justice for historically marginalized communities. The case established key principles regarding the implementation of Article 16 (Equality of Opportunity in Public Employment) for disadvantaged groups.

Vishaka v. State of Rajasthan⁴² This landmark case dealt with sexual harassment in the workplace. The Supreme Court laid down comprehensive guidelines for the protection of women from sexual harassment at the workplace, recognizing the fundamental right to equality and dignity under Article 14, Article 15, and Article 21 of the Indian Constitution. It directed the government to enact appropriate legislation to protect women in the workplace, which later led to the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.

Maneka Gandhi v. Union of India⁴³ This case is one of the most significant in expanding the interpretation of Article 21 (Protection of Life and Personal Liberty). Maneka Gandhi challenged a government order impeding her right to travel abroad. The Supreme Court ruled that the right to life and personal liberty is not just about physical existence but includes the right to live with dignity. This broad interpretation has been used to protect marginalized groups' rights in various contexts, including social and economic discrimination.

M.C. Mehta v. Union of India⁴⁴ M.C. Mehta's case involved the rights of marginalized communities, particularly children working in hazardous conditions. The Supreme Court of India issued directives for the abolition of child labor, interpreting **Article 21** to include the right of children to be protected from exploitation and hazardous work. The judgment reinforced the importance of human rights protections in ensuring the welfare of vulnerable groups, including marginalized children.

⁴¹ *Indra Sawhney v. Union of India* (1992) 1 SCC 647

⁴² *Vishaka v. State of Rajasthan* (1997) 6 SCC 241

⁴³ *Maneka Gandhi v. Union of India* (1978) 1 SCC 248

⁴⁴ *M.C. Mehta v. Union of India* (1987) 1 SCC 395

*Nandini Sundar v. State of Chhattisgarh*⁴⁵ This case focused on the rights of indigenous communities, particularly in conflict zones like Chhattisgarh. The Supreme Court ruled that the state cannot violate the fundamental rights of indigenous people through unlawful acts of violence and exploitation by government-sponsored militia groups. It emphasized the duty of the state to protect the Article 21 rights of indigenous tribes and their cultural and economic autonomy, further asserting the state's responsibility in upholding international human rights standards.

VI. CONCLUSION

In conclusion, the role of international human rights law in protecting marginalized communities in India is both significant and complex. India, as a signatory to various international human rights treaties, has committed to upholding the rights of its vulnerable populations, including Dalits, women, indigenous tribes, and religious minorities. While India's legal framework provides an essential foundation for the protection of human rights, the challenges in enforcement and implementation remain substantial. These challenges underscore the gap between international norms and domestic realities, often compounded by social, political, and institutional factors that hinder effective protection.

India's obligations under international human rights law are reflected not only in the country's ratification of key international treaties, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights, but also in its Constitution, which guarantees fundamental rights to all its citizens. The country has established national legal provisions, such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and the Protection of Women from Domestic Violence Act, 2005, to protect marginalized groups. However, while these legal instruments theoretically safeguard the rights of vulnerable communities, their practical implementation often falters due to systemic issues, including social resistance, political factors, and lack of institutional capacity.

The gap between the ratification of international treaties and their domestic implementation is a significant hurdle. Despite the constitutional guarantee of fundamental rights and the alignment of domestic laws with international standards, enforcement mechanisms are often ineffective. Judicial delays, bureaucratic inefficiency, and insufficient legal infrastructure contribute to the continued marginalization of vulnerable communities. Political resistance to reforms further exacerbates the situation, particularly in rural areas where caste-based

⁴⁵ *Nandini Sundar v. State of Chhattisgarh* (2011) 7 SCC 547

discrimination, gender-based violence, and other forms of exploitation remain deeply ingrained in societal structures. Such resistance often undermines the enforcement of protective laws, leaving marginalized groups vulnerable to exploitation and abuse.

Institutional mechanisms designed to safeguard human rights, such as the National Human Rights Commission (NHRC), play an important role in monitoring and addressing violations. However, the NHRC lacks binding authority and can only issue recommendations to the government, which limits its ability to ensure accountability. Additionally, resource constraints and insufficient training for law enforcement agencies impede their capacity to address human rights violations effectively. The lack of awareness among marginalized communities regarding their legal rights further compounds the problem, as individuals often remain unaware of the avenues available for seeking justice and redress.

To strengthen the enforcement of human rights, India must focus on addressing the structural barriers that hinder the implementation of legal protections. This includes enhancing institutional capacity by allocating sufficient resources to human rights bodies, training law enforcement officers, and ensuring that marginalized communities have access to legal support. It is also critical to foster greater awareness of human rights laws and promote legal literacy programs to empower vulnerable groups to assert their rights.

(A) Suggestions

To effectively address the challenges in the enforcement of international human rights law in India and to better protect marginalized communities, several measures can be implemented. These suggestions are aimed at strengthening institutional mechanisms, enhancing awareness, improving legal frameworks, and fostering social change. While India has made considerable strides in recognizing human rights, these steps can help bridge the gap between legal provisions and their effective implementation.

1. Strengthening Institutional Mechanisms One of the primary challenges to the enforcement of human rights protections in India is the weakness of institutions tasked with safeguarding these rights. The National Human Rights Commission (NHRC) plays a critical role in monitoring violations, but its lack of binding authority and limited resources often hampers its effectiveness.

2. Improving Legal Infrastructure and Access to Justice India's legal system often faces challenges such as delays, backlogs, and inadequate training of law enforcement officials, which impede the delivery of justice. To address these issues, it is essential to prioritize judicial

reforms, such as increasing the number of courts, improving court infrastructure, and expediting the trial process..

3. Addressing Social Resistance and Promoting Awareness Social resistance to legal reforms is a significant obstacle to the protection of marginalized communities in India. Discriminatory practices based on caste, gender, and religion remain prevalent, particularly in rural and tribal areas. To address this, a national campaign to promote social inclusion, dignity, and respect for diversity must be launched. The government, civil society organizations, and educational institutions should collaborate to raise awareness about human rights and challenge discriminatory norms and practices.

4. Promoting Accountability and Strengthening Governance To ensure accountability, there must be stronger political will to implement laws and policies that protect marginalized communities. Government officials and politicians must be held accountable for the effective implementation of human rights protections, and political parties should be encouraged to adopt more inclusive policies that address the needs of marginalized communities.

5. Encouraging Grassroots Participation and Empowerment To achieve lasting protection for marginalized communities, their active participation in policy-making and decision-making processes is crucial. Empowerment at the grassroots level is essential to ensure that marginalized groups are able to claim their rights and participate in shaping the laws and policies that affect them. Community-based organizations, leaders, and activists must be supported to help marginalized communities assert their rights and demand accountability from the state.

6. Strengthening International Cooperation India's human rights obligations extend beyond its borders, and greater cooperation with international human rights bodies and organizations can help reinforce its commitment to international standards. By collaborating with the **United Nations**, regional human rights bodies, and non-governmental organizations, India can improve its human rights reporting and ensure that its legal and policy measures align with international best practices. Engaging in regular dialogue with international human rights experts can also help India identify areas for improvement and receive technical assistance in addressing human rights violations.

VII. BIBLIOGRAPHY

(A) Statutes

1. Constitution of India, 1950.
2. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. Protection of Women from Domestic Violence Act, 2005.
4. The Rights of Persons with Disabilities Act, 2016.
5. The National Human Rights Commission Act, 1993.

(B) Books

1. Ghai, A. (2016). *Human Rights and Development in India: Law, Policy, and Practice*. Oxford University Press.
2. Mahajan, V. (2019). *Indian Constitutional Law*. Lexis Nexis.
3. Sharma, B. (2020). *Marginalized Communities and Human Rights in India*. SAGE Publications India.
4. Kothari, R. (2018). *Human Rights in India: Historical, Social, and Political Perspectives*. Oxford University Press.
5. Chandhoke, N. (2017). *The Politics of India's Human Rights: A Pragmatic Approach*. Cambridge University Press.

(C) Articles

1. Baxi, U. (2002). "The Role of Human Rights in Post-Colonial India." *Indian Journal of Human Rights and the Law*, 14(1), 23-39.
2. Chakraborty, A. (2015). "Human Rights and Caste-Based Discrimination: An Overview of the Indian Legal Framework." *Journal of Social Justice and Law*, 18(4), 245-267.
3. Gupta, S. (2017). "Gender Equality and International Human Rights Law: The Case of India." *International Journal of Human Rights*, 21(2), 102-121.
4. Das, S. (2016). "Indigenous Rights and International Human Rights Law: Challenges in the Indian Context." *The International Journal of Law and Political Science*, 9(3), 189-205.
5. Menon, S. (2020). "The Impact of International Human Rights Law on Indian Minority Protection." *Journal of International Human Rights Law*, 15(2), 213-236.

6. Pillai, A. (2018). "State Responsibility and the Protection of Marginalized Groups in India." *Indian Law Review*, 10(1), 50-71.
7. Singh, S. (2014). "The Intersection of International Human Rights Law and Caste Discrimination in India." *Human Rights Law Review*, 14(2), 93-108.
8. Patel, R. (2019). "Human Rights in India: Addressing the Gaps in Enforcement." *Indian Journal of Human Rights*, 25(3), 365-380.
9. Reddy, K. (2021). "Domestic Implementation of International Human Rights Law: A Case Study of India's Legal System." *Law and Human Rights Journal*, 11(2), 92-105.
10. Verma, R. (2013). "The Role of International Human Rights Treaties in Indian Legal Reform." *Asian Journal of International Law*, 4(1), 38-56.
