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Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



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Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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“COMPARATIVE ANALYSIS: BETWEEN THE RELATION OF INTERNATIONAL AND MUNICIPAL LAW.”

AUTHORED BY - ANISHA KUMARI

First Sem LLM Student, IILM University Greater Noida

Under supervision of Rachit Sharma

Abstract

The relation between international law and municipal law is comprehensively analyzed in this paper. This research paper majorly talks about the different aspects of both the laws. International law focuses on the interstate whereas municipal law talks on the ties between citizens and the states. The international law is known as public international law whereas municipal law is private international law. In this article the focus is about the differences in between and deep analysis of laws through various aspects like their meaning, the existing legislations, historical background, theories, recent development and changes in both the laws, current case laws regarding this and above all the comparison between different states. The article influences the importance of both the laws as well as their own deficiencies. In international laws the subject matter is regarding the laws of nations their applicability in world wide sphere .The united nation and their organization like WHO ,UNESCO, international labor organization and so on but In municipal law this is applicable only in the territory of the state between the citizens .It deals the private laws like civil and criminal law ,commerce and trade ,business in the specific territory .The article also emphasis on the pros and cons of international and municipal law. This particularly looks at the overlapping of several terms and concepts in two areas of laws.

Keyword; International law, municipal law, states and citizens, legislation, theories, united nation, organizations, pros and cons, comparison, legal spheres and suggestions.

Introduction

The Law of Nations or International Law is the name for the body of customary and treaty rules which are considered legally binding by the States in their intercourse with each other. International Law consists of the rules and principles of general application dealing with the conduct of States and of international organizations in their international relations with one another and with private individuals, minority groups and transnational companies. It may be described as 'the sum of the rules accepted by civilized States as determined by their conduct towards each other, and towards each other subjects.' Municipal law is the national, domestic, or internal law of sovereign state defined in opposition to international law. Municipal law includes not only law at the national level, but law at the state, provincial, territorial, regional or local levels. While, as far as the law of the state is concerned, these may be distinct categories of law, international law is largely uninterested in this distinction and treats them all as one. Similarly, international law makes no distinction between the ordinary law of the state and its constitutional law. The question of the extent to which as a matter of municipal law the organs of the state – i.e. courts and other agencies administering law- applying international law is clearly the question of Municipal Law. The application of international law in municipal court depends upon the Constitution of the State. Public international law leaves each country to decide on the relationship between international law and municipal law. In some countries international law automatically becomes part of municipal law whereas in some countries they specifically adopt international law. Legislature and court systems are different on the international and municipal levels. Where the municipal level uses a legislature to help enforce and test the laws, the international court system relies on a series of treaties without a legislature which, in essence, makes all countries equal. Enforcement is a major difference between municipal and international law. The municipal courts have a law enforcement arm which helps require those it determines to follow the rules, and if they do not, they are required to attend court. The international court system has nonenforcement and must rely on the cooperation of other countries for enforcement.

INTERNATIONAL LAW

Definition of International Law

1. **Oppenheim:** "International Law is the body of rules legally binding on States in their intercourse with each other. These rules are primarily those which govern the relations of States, but States are not the only subjects of International Law. International Organizations and, to some extent, individuals may be the subjects of rights conferred and

duties imposed upon International Law".

2. **Black's Law Dictionary:** "The legal system governing the relationship between nations; more modernly the Law of International relations, embracing not only nations but also, such participants as international organizations and individuals".
3. **Hall: According to Hall,** " International Law consists in certain rules of conduct which the modern civilized states regard as being binding on them in their relationships with one another".
4. **J.G. Starke:** "Int. Law may be defined as that body of law which is composed for its more significant part of the principles and rules of conduct which states feel bound to observe, and therefore, do commonly keep in their relations with each other, and which includes also.
 - a) The rules of law relating to the functioning of international institutions or organizations, their relations with each other, and their relations with states and individuals; and
 - b) Specific rules relating to individuals and non-state entities so far as the rights or duties of such individuals and non-state entities are the concern of the international community".

Nature of International Law

There are two views on the subject: International Law is a true law, or International Law is not a true law. Law is not simply the creation of a sovereign monarch or State; it has existed in various societies without the consent of a sovereign. Several treaties exist but are not implemented by Sovereign governments, even though they have statutory authority. These regulations are founded on international conventions such as the Geneva Convention and The Hague Convention etc. Many conflicts are now resolved by international treaties and conventions. Rather than moral arguments. The presence of international law is not denied in resolving. many international disputes: instead, it is stated that the parties' actions are consistent with international law. It is not proper to argue that conformity with international law is unaffected by sanctions or fear of repercussions. The United Nations Charter has numerous clauses in this regard. The United Nations' very existence is predicated on the existence of a legal framework of international law. The rulings of the International Court of Justice are binding. on all parties, according to article 94 of the United Nations Charter. Weakness of International Law Lack of legislative authority - The most significant problem is that state legislatures do not enact international law. Lack of executive power - There is no adequate executive power for enforcing international law. The

International Court of Justice (I.C.J.), based in Hague. (Netherlands), does not have the competence to hear cases from all countries. Furthermore, cases can be filed in this Court with the consent of all parties involved. As a result, the international Law, there is no sense of sanction or fear. Lack of effective control over powerful states – The United Nations Organization (U.N.O.) has many powerful and weak. member states. Uncertainty – it does not have the same level of certainty as State or municipal law. Furthermore, it is unable to maintain international peace and order in general. No right to intervene in domestic affairs – international law does not have the authority to intervene in domestic affairs.

Municipal Law

The Black's Law Dictionary, defines the term "Municipal Pal Law" as: B. A. Garner (Ed. in Chief), Black's Law Dictionary "The ordinances and other laws applicable within a city, town or other local government entity". Thus, Municipal Law is the acts made by the legislature or the Law-making authority of a state, applicable to that state alone. Municipal Law governs the Municipal aspects of government dealing with issues between individuals, and between individuals and the administrative apparatus. In its narrower and more common sense, pertaining to a local governmental unit, commonly a city or town. In its broader sense, pertaining to the public or governmental affairs of a state, nation, or of a people. Relating to a state or nation, particularly when considered as an entity independent of other states or nations.

Relationship Between Municipal Law And International Law

While international law is applied in the relations of the states and to other subjects of international law, national or state law which is called municipal law. Is applied with in a state to the individuals and corporate entities which are the bearers of rights and duties there under. Apparently, it might be looking that there is hardly any relationship between the two system as they constitute two different legal systems each of which is designed to operate in its own sphere and they applied distinctly to their subjects by different courts, but it is no so. The problem of the relationship between the rules of international law and municipal law is one of the most controversial questions of legal theory. originally the relationship between the two laws was a matter of theoretical importance i.e., whether international law and municipal law are parts of universal legal order to they are form distinct system of law but at present the question has acquired 'practical significance as well. When there exists a conflict between the rules of international law and municipal law, a court is faced with of the difficulty of arriving at a decision. Before an international tribunal, the question is one of primacy, whether international law takes

primacy over municipal law, or vice versa. If the conflict arises international law between Municipal courts, the answer depends on how far constitutional law of the state allows international law to be applied directly by the courts. Almost every case, in Municipal court, in which a rule of international law is asserted to govern, the decision rises the problem. For instance, diplomatic immunities granted by international law would become meaningless unless they are recognized by municipal law. Further customary rules of extradition are interpreted and applied by municipal courts only. It is also be noted that international law gives an individual certain rights obligation which can be enforced directly in national courts was alleged in the Pinochet case Generally the manner in which international law is employed in the national courts of any particular country is largely determined by the national law of that country. In fact, international law cannot work without the co-operation and support of the national legal system. The question of the relationship of the two systems has acquired importance in modern international law also because very large part of it is directly concerned with the activities of individuals who come under the jurisdiction of municipal courts. Thus, it is in municipal courts an increasing part of international law is enforced.

of Relationship among International Law Traditional Approch-

Theories and Municipal Law Monism

Municipal law functions exclusively within its municipal jurisdictional bounds, whereas international law functions solely at the international level. On the other hand, natural law proponents think that municipal and international law combine to produce a unified legal system known as Monism. Those who reject dualism theory and support the monist approach can be divided into two groups: those who, like Lauterbach, retain a strong ethical stance with a concern for human rights, as well as individuals who, like Kelsen, keep a monist stance on formalistic logical reasons. The monists are unified in their acceptance of a unified conception of law instead of the positivists' rigorous division. Monists believe that the domestic and international legal systems are the same. Whether lawful or illegal activities are determined by national legal norms and international laws that a state has adopted, such as through a treaty. International law doesn't have to be translated into municipal law in a pure monist state. It is integrated into national or domestic laws and takes effect automatically. The act of ratifying an international treaty converts the law into municipal law instantly, and customary international law is also considered part of national law. As if it were national law, international law can be directly implemented by a national judge and immediately invoked by citizens. Because international norms take precedence in some countries, a court might deem a national regulation unconstitutional if it violates

international standards.

monism Considers International law and Municipal law to be part of the same body of Knowledge i.e. Law. Monists assume that the internal and international legal system forms annuity. They both operate in the same sphere of influence Andrae connected with the same subject matter and thus can come into conflict, but if there is conflict then international law will prevail. Monism dictates national law that contradiction international law is null and void, even if it is the constitution.

In Kelsen's view, the ultimate source of the validity of all law derived from a basic rule "Grundnorm" of international law.

His theory led to the conclusion that all the rules of international law were supreme over international law that municipal law inconsistent with international law was automatically null and void and that rules of international law were directly applicable in the domestic sphere of states. International Law and Municipal Law are two phases of one and the same thing. The former, although directly addressed to the States as corporate bodies is as well applicable to individuals for States are only groups of individuals.

Dualism

The dualist doctrine developed in the century. This theory considers international law and Municipal law to be separate legal orders operating and existing independently of one another. Dualists emphasize the difference between these two laws and require translation of international law into Municipal law. Without the translation, international law does not exist as law; international law has to be national law as well. International law is the law applicable between sovereign states and is dependent on the common will of states for its authority whereas Municipal laws apply within the state regulating the activities of citizens and have source of authority form state itself. But when both these laws deal with same subject matter there will be conflict, a Municipal Court following the dualist doctrine would apply municipal law. Thus, this doctrine considers international law as weak law as it is a law among states made of an agreement. A German scholar, Trippel, and an Italian scholar, Anzilotti, devised the dualism concept. International law and state law, according to dualistic writers, are two distinct bodies of law. The fundamental notion of Dualism is that International Law and Municipal Law are two different

and different systems in terms of their purposes and fields of activity so that the norms of one would not apply to the other without a positive act of reception or transformation. Thus, international Law and Municipal Law are two distinct fields of law, international Law can never be implemented in a state without being incorporated or transformed into Municipal Law. Individuals and groups are the primary focus of municipal law, whereas states focus on international law. Municipal law's primary duty is to regulate the State's internal functioning and the relationship between the State and the person. In contrast, international law's primary role is to monitor state-to-state interactions. International law applies between sovereign nations and is based on the common will of states. However, municipal laws exist within the State and regulate individuals' actions and have power derived from the State itself. However, if both laws deal with the same subject matter, a municipal court using the dualist concept would apply municipal law. The sources of law, its subjects, and subject matter are the primary distinctions between international and domestic law. International law is derived from states' collective will, its subjects are the states themselves, and its subject matter is international relations. Domestic law is derived from the sovereign's or State's will, its subjects are persons inside the State, and its subject matter is the relationships between persons and government. Dualism's criticism was that international law applies to nations, persons, and other non-state entities in the contemporary era. The idea that state will is the basis of state law is false; State will be nothing more than people's will.

Specific Adoption Theory

International law, according to positivists, cannot be directly implemented in the realm of state law. It must be explicitly adopted in the sphere of municipal law to be enforced. In short, international law can only be implemented in the realm of municipal law if municipal legislation allows or approves it. Only when municipal law authorizes or embraces may it be used in the realm of municipal law.²⁰For example, it has adopted the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights under the Protection of Human Rights Act, 1993. Legislative ad hoc inclusion of international rules is another term for this idea of international law implementation. According to this viewpoint, international rules are only applicable within the State legal system when implementing legislation is passed by the competent parliamentary authorities. Legislations like, Treaty provisions are translated into national law by an act of Parliament (statutory incorporation). The different obligations, powers, and rights arising from the international provisions are detailed or

without reformulating the international rule being included (automatic incorporation). Parliament urges the automatic implementation of the international treaties as such, it is maintained, cannot be enforced in the municipal field unless they are specifically adapted or transformed. The Indian Parliament passed the Diplomatic Relations Act, 1972, to accept the Vienna Convention on Diplomatic Relations, 1969. The Indian Extradition Act of 1962, the United Nations Convention Against Apartheid Act of 1981, the Anti-Hijacking Act of 1982, etc. In *Jolly George V. The Bank of Cochin*, the Supreme Court of India declared that while the member nations' positive commitment drives legislative action at home, this will not automatically make the covenant binding under Law in India. The criticism of this theory was that this perspective is incorrect in terms of all international law because many elements of international law (particularly customary rules) are implemented in the realm of municipal law without formal adoption.

Transformation theory

As per this theory, the transformation of the treaty into national laws is the only way to justify the application of international accords' provisions to individuals. The transition is more than a formality; it is a need. Exponents of this idea argue that to apply international law in the realm of municipal law, the norms of international law must be transformed. As international law becomes more widely accepted, it undergoes various changes. It cannot be applied to Municipal Law unless it is transformed. States use “transformational” mechanisms to implement treaties and norms into their municipal laws. The Automatic Standing Incorporation of International Laws is another name for this theory. According to this notion, incorporation happens when a national constitution or law states that all state officials and nationals and other individuals living in the State's territory are obligated to follow current or future international law. Thus, any appropriate rule of International Law, whether customary or treaty law, is automatically incorporated into National Law under an internal rule, without the need for a particular National Law to include it. As a result, whenever a country signs a treaty or a new customary rule emerges, states must follow it without question.

In various aspects, this theory is flawed. To begin with, the assumption that International Law and Municipal Law are two separate systems is false. Secondly, the second premise that international Law solely binds Governments whereas municipal law only binds persons is false because International Law is the totality of the principles that civilized states have accepted as regulating their behaviors toward each other and their citizens. Thirdly, the theory addresses the

transition of treaties into national law to enforce them. However, this is not always the case because converting treaties into national laws varies by country. And this is not the case with treaties that make laws.

Delegation theory

The criticism of the Transformation theory led to the development of the Theory of Delegation. According to proponents of this idea, powers have been assigned to the constitutions of various states under the statutory principles of international law to assure how and to what degree these powers are exercised. Domestic law is based on treaties. It does not lead to transformation or the enactment of new legislation. As a result, there is no transformation or specific adoption in every situation. In the realm of State law, the rules of international law are applied in accordance with the process and system in place in each State, as set out in its Constitutions. International Law delegated rule-making authority to each State based on the method and system in place in that State, as well as the Constitution and Rules of the Treaty or Convention that member states sign and adhere to. This theory states that the guidelines of international law known as "Constitutional rules of international/treaties" delegate a right to each state constitution, allowing each State to evaluate or determine for itself when and how will be implemented.

This idea can be viewed simply as a reaction to Dualism and other positive views; yet one may wonder where and what the constitutional standards of international law are. When did these rules delegate power to state constitutions, and how did they do so? Every nation is equal and independent, and no control over or above it is recognized. Landmark English and American cases have established that international law is an element of those countries' municipal law. The United States has consistently applied the principle that international law is a part of domestic law. All international agreements that the United States has ratified and customary international law that has acquired the United States' consent are obligatory on American courts, even when they conflict with statute provisions. There is a presumption that the U.S. Congress didn't want to overrule international law in times of conflict.

Problems associated with the application of International Law in Municipal Courts

Many domestic courts lack professional capacity correctly to apply international law norms, as most domestic judges have little, if any, international law experience or training. The practical

problems which the municipal judge may encounter the application of such norms are essentially of two kinds: the first relates to the ability of the municipal judge to gain knowledge of the content and meaning of International Public law while the second relates to the scope that is open to him to apply International Public Law in the face of the rules of his own legal system which define his status and role. Independence and quality of some municipal courts and judges in questionable; such problems of limited capabilities and politicization may be exacerbated if domestic courts were to deal more frequently with international law norms, often characterized by a high degree of politically sensitive and legal complexity. Also, as compared to rules of municipal law, the rules of International Law suffer from greater uncertainty. International law lacks effective executive authority to enforce its rules. Due to the lack of effective sanctions, rules of international law are frequently violated. Its enforcement machinery is very weak. It cannot be denied that the concepts of Sovereignty and Domestic Jurisdiction are the formidable obstacles in the basic recognition. A great limitation is international law cannot intervene in the matters which are within the domestic jurisdiction of States. For example, whenever the U.S. raised the matter of alleged violation of human rights in Soviet Union (i.e., its treatment of dissidents) the latter took the plea of non-interference in the internal matters. One should note that the movement toward increasing the international law-applying capabilities of municipal courts and the greater utilization of that capacity in actual practice is by no means universal. Perhaps paradoxically, two groups of states have been largely left out of the process of increased international law-application: states that strongly resist the penetration of international law into their domestic laws already largely reflect international norm.

Thus, rendering redundant the invocation of the latter. Any long-term strategy for integrating domestic courts within the international judiciary by bolstering their role in implementing international law must therefore account for uneven geographical and political prevalence of the international law application.

Implementation of International Law in Indian Municipal Law

The constitution of India Under articles 51, 73, 245 & 246 has given consideration to 'international laws' and 'treaties', but the clause 'c' of Art. 51 specially mention 'International law' and 'treaty obligation', but art. 51 do not give any clear guidance regarding position of international laws in India as well as the relationship of municipal laws and international law but we can gather the guidance from Prof. C.H. Alexan drowicz who says that expression 'international law' in Art.51 connote 'Customary International law' and 'treaty obligation' stands

for 'Treaties'. In India International law are part of municipal laws provided that they are not inconsistent with any legislative enactment or the provision of the constitution. Indian court can apply International law if they are not inconsistent with the rule of domestic law.

Indian constitution follows the 'dualistic' theory with respect to incorporation of international laws in to municipal law. International treaties do not become part of national law in India automatically. They must be incorporated into legal system by an act of parliament. The court first look at the municipal law and if the municipal law is silent on a point then the court will refer to the Customary international for the reference, the same thing has been done by the SC time and again and in the case of Jolly George Varghese and Anr. The Bank OF Cochin AIR 1980 S.C 470 accepted this view. In Shri Krishna Sharma VS The State of the West Bengal AIR1980 S.C 470 the Calcutta HC stated that:

"If the Indian Statutes are in conflict with any principle of International Law, the Indian Courts will have to obey the laws enacted by the legislature of the country to which they owe their allegiance. In interpreting and applying municipal law, the Courts will try to adopt such a construction as will not bring into conflict with the rights and obligations deductible from rules of internal law. If such rules or rights and obligations are inconsistent with the positive regulation of municipal law, the courts override the latter. It is futile in such circumstances to seek to reconcile, by strained construction which irreconcilable."

In another case

A.D.M. Jabalpur VS Shukla AIR 1954 CAL 591

Justice H.R. Khanna in his dissenting held likewise by stating that if there is a conflict between municipal law International Law (customary International Law), and the Courts shall give municipal law. However, in some cases Supplied Customary International law also, the case of Gramophone Company of India Ltd. VS Birendra Bahadur Pandey AIR 1984 SC 667 clearly state the observations of the Supreme Court which relates to the binding force of the customary rules of International Law. From the decision of this case it was made clear that the Indian Courts shall apply customary International Law in India to the extent they are not inconsistent with the municipal laws. it was held by jury that if there is not a law regarding any subject matter in India then for the same reference can be taken from Customary International law. As to treaties it has been stated by Basu in his commentary on Constitution of India that treaties are not implemented by legislation are not binding on municipal courts. The same thing is stated in Article 253 of constitution May 5, 2021)

LANDMARK JUDICIAL DECISIONS

South West Africa case

Former League of Nations State Members Ethiopia and Liberia launched a separate procedure for the issues raised in South Africa on November 4, 1960, to keep the League of Nations mandate for South Africa alive. The Court was requested to clarify why South Africa was still a mandate territory, had broken its commitments under the mandate, and was thus subject to U.N. legal authority. On May 20, 1961, the Court determined that Ethiopia and Liberia had similar interests and decided to join the trial. South Africa has filed four primary.

challenges to the Court's jurisdiction. The Court dismissed them and confirmed their authority in a judgment dated December 21, 1962. The Court convened a public hearing from March 15 to November 29 1965, to hear oral arguments and declarations and the second stage of the judgment, after the defence was essentially concluded within the time limit set at the parties' request.

Barcelona Traction case

Belgium sued Spain on behalf of Belgian nationals (P) who had invested in a Canadian firm, claiming that Spain was accountable for actions of international law that had harmed the Canadian firm and its Belgian shareholders. The Court dismissed this case, demonstrating the distinction between naturally sovereign persons on a national and international level. The Court found in favour of Spain since Belgium was not responsible for the conflict in Spain and stockholders seeking compensation were not accorded diplomatic immunity.

Civil Rights Vigilance Committee S.L.R.C. College of Law Bangalore V. Union of India

While assessing this case, the High Court of Karnataka analyzed the relation between International Law and Municipal Law. With the increasing relevance of International Law on the global and municipal scene, several unique and novel questions about the relationship between the two are beginning to be raised.

The Hon'ble High Court, on the other hand, decided that because municipal and international law are based on distinct sources, the two systems can become incompatible.

State of West Bengal v Kesoram Industries Ltd. & others

In this decision, the Supreme Court's Constitutional Bench concluded that the idea of Dualism,

not Monism, applies in India; however, if the local legislation does not limit the scope of the statute, the Supreme Court can interpret it even though India is not a signatory to the treaty.

Apparel Export Promotion Council V. A.K. Chopra

The Court expelled the Corporation's superior officer for abusing a subordinate female employee, according to the Vishakha norms. The Court goes on to say that in situations involving violations of human rights, judges must always be aware of international instruments and conventions and apply them to the facts of the case when there is no conflict between international norms and the state law that governs the situation.

While dealing with the matter, the High Court appeared to have completely ignored the purpose and content of international conventions and norms.

R.V. Keyn (Franconia Case)

Within the British Maritime Belt the German ship Franconia crashed with a British vessel. One person killed when the British vessel sank. The master of the German ship was found guilty of manslaughter by a British court. However, the Court's jurisdiction was questioned because the incident occurred within British territorial waters.

The House of Lords decided that the English Court was bound by municipal law, which did not provide jurisdiction. Hence there was no jurisdiction. However, Parliament countered this by enacting the Territorial Jurisdiction Act of 1878, which broadened the jurisdiction.

West Rand Gold Mining Co. V. King

This was a South African company that worked in a gold mine. The Company's gold was confiscated by government officials, who were required by law to compensate the Company or restore the gold. However, the British defeated South Africa, and the gold was taken to England. The Company then sued the English government for the return of the gold or compensation. The Crown issued a declaration stating that the British government, as its successor, would not honour the South African government's pledges. The Corporation was not liable to get gold or compensation, according to the Court, because the Crown Declaration was Municipal Law that was enforceable on Municipal Courts. Thus, municipal law prevailed in this matter.

Chung Chi Cheung V. King

Chung worked as a cabin boy on a Chinese ship. He shot and murdered the Captain while the vessel was in Hong Kong Territorial Waters. & still, another individual, C, was dutifully enlisted. The dispute was whether the Hong Kong Court (a British Colony at the time) had jurisdiction to hear the case. The Privy Council ruled that the Court was competent to hear the case. The guilty verdict was upheld.

COMPARATIVE ANALYSIS

United Kingdom:-

The courts should, in theory, give respect to clearly established standards of international law, according to U.K. public policy. Various hypotheses have been proposed to explain why international law laws are applicable inside the jurisdiction. The theory of transformation is one manifestation of the positivist–dualist perspective. This is based on the belief that there are two distinct systems of law functioning individually and that any rule or principle of international law must be explicitly and precisely 'transformed' into municipal law using the suitable constitutional machinery, such as an Act of Parliament before it can have any effect within the domestic jurisdiction.

The U.S.A.:-

Apart from the requirement to consider the Constitution, the American view on the link between municipal law and customary international law appears to be reasonably similar to British practice. 'As a general concept, it is, of course, true that the United States has a fundamental national interest in complying with international law,' the U.S. Supreme Court stated in *Boos v. Barry*³⁰. The Constitution, on the other hand, applied to international law. The prevailing view is that customary international law in the United States is federal law and also that the federal courts' decisions are binding on state courts. The notion of precedent and the requirement to act according to previously decided decisions bind U.S. courts. They, too, must apply legislation over any norms of customary international law that conflict with it.

Other Countries:-

It is plausible to assert that the same principles apply in other nations where English common law has been adopted, such as the majority of Commonwealth states and, for example, Israel. Overall, customary law is considered part of the law of the land. Municipal laws are believed to be non-

incompatible with international law, although the former takes precedence in a dispute.

In the *Reference Re Secession of Quebec*³¹ decision, the Canadian Supreme Court remarked that in a number of situations, the Court had to resort to international law to assess the rights or responsibilities of some entity inside the Canadian legal system.

India:-

The provisions of international law are only referred to in the most general terms in the Indian Constitution, implying that the drafters of the Indian Constitution were exceedingly ambiguous in defining the position of international law in the municipal domain. The link between international law and domestic law is not well defined in our Constitution. India's domestic laws, including the Constitution, should not be interpreted as defying international law in the event of any uncertainty. Every effort should be made to construe national laws as being in accordance with international law. Nonetheless, the Constitution remains the highest law of the State, and in the event of a direct dispute, the Constitution shall take precedence. The Indian legal system would accept international laws as long as they did not supersede national laws and followed the rules established by international laws and standards.

CONCLUSION

International law regulates state action in international society, while municipal law covers individual activity within a state's jurisdiction. International law is concerned with a country's external affairs, while municipal law is concerned with its internal issues. International Law is weak compared with Municipal Law because it is not law above, but law between States. Both municipal and international legal systems operate autonomously with one another, with no assumption of conflict or hatred. Both systems are crucial and mutually supportive and interactive in connection to numerous transboundary concerns in the current setting. For instance, the State's secondary responsibility is delegated to an international authority established under international law. Monism and Dualism are commonly thought of as two conflicting conceptions of the interaction between international and municipal law. Many modern scholars believe that Monism and Dualism have limited explanatory power as theories because they fail to reflect how international law operates within states. Whatever the case may be, Monism and Dualism are powerful analytical tools. They serve as standard starting points for research into the relationship between international and municipal law. Thus, International law no longer only applies to

nations; it now applies to individuals. International law increasingly moved toward a human commonwealth that included individuals, states, and other aggregates that cut state borders.

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⁸ Black's Law Dictionary definition of Municipal law

⁹Find law blog "What is Municipal Law?" available at <https://www.findlaw.com/hirealawyer/choosing-the-right-lawyer/municipal-law.html> (Visited on May 5, 2021)

¹⁰Vienna Convention On the Law of Treaties Signed at Vienna 23 May 1969

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