



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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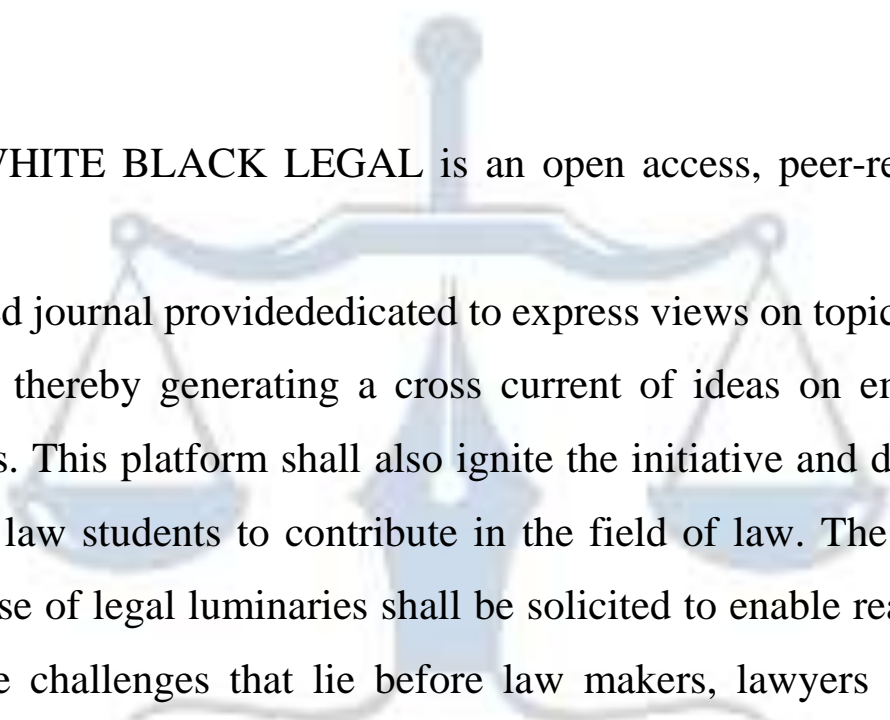


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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **INDIA'S IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS INSTRUMENTS: ACHIEVEMENTS AND CHALLENGES**

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## **ABSTRACT**

This research explores India's commitment to international human rights frameworks and its implementation of international treaties and conventions. By analysing India's ratification of major human rights instruments, including 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), this study examines the alignment of Indian laws with international standards. The research highlights both the successes and challenges faced by India in fulfilling its human rights obligations, such as socio-economic factors, political inefficiencies, and cultural reservations. It also investigates the role of institutions like the National Human Rights Commission (NHRC) and the judiciary in safeguarding human rights and provides case studies to illustrate areas of non-compliance. The paper concludes with recommendations for strengthening India's human rights framework through legislative reforms, better enforcement mechanisms, and active engagement with international monitoring processes.

**Keywords:** *International Human Rights, India, Human Rights Treaties, NHRC, Legislative Reforms*

## **INTRODUCTION**

In a rapidly globalizing world, human rights have emerged as a cornerstone of international relations and domestic governance. The concept of human rights gained prominence after the Second World War, culminating in the Universal Declaration of Human Rights (UDHR) in 1948.<sup>1</sup> This milestone document laid the foundation for subsequent international treaties aimed

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<sup>1</sup> Universal Declaration of Human Rights, 1948, available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (last visited Dec. 18, 2024).

at protecting civil, political, economic, social, and cultural rights worldwide. These instruments serve as guidelines for states to uphold and promote fundamental freedoms for all individuals.

The importance of international human rights instruments lies in their ability to set global standards while encouraging national frameworks to align with these norms. By participating in such treaties, countries not only demonstrate their commitment to universal values but also integrate these principles into domestic legal and policy structures.

India has been an active participant in shaping the global human rights discourse.<sup>2</sup> As a founding member of the United Nations, India has ratified several key international treaties, including the International Covenant on Civil and Political Rights (ICCPR)<sup>3</sup>, International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>4</sup>, and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>5</sup>

The Indian Constitution reflects a strong commitment to these international principles.<sup>6</sup> The Fundamental Rights (Part III) and Directive Principles of State Policy (Part IV)<sup>7</sup> enshrine values of equality, freedom, and dignity that align closely with international human rights standards. Additionally, Article 51(c) of the Constitution directs the state to foster respect for international law and treaty obligations.

### Research Objectives

The objectives of this study are:

1. To analyse India's implementation of international human rights treaties and conventions.
2. To identify the key gaps and challenges in domestic enforcement of international human rights obligations.

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<sup>2</sup> United Nations, "India and the United Nations," available at: <https://www.un.org/en/about-us/member-states/india> (last visited Dec. 18, 2024).

<sup>3</sup> International Covenant on Civil and Political Rights, 1966, 999 UNTS 171.

<sup>4</sup> International Covenant on Economic, Social and Cultural Rights, 1966, 993 UNTS.

<sup>5</sup> Convention on the Elimination of All Forms of Discrimination Against Women, 1979, 1249 UNTS 13.

<sup>6</sup> Basu, D.D., **Commentary on the Constitution of India**, 9th ed., LexisNexis (2016), pp. 113–117.

<sup>7</sup> Indian Const. arts. 14, 19, 21, 39, and 51(c).



## Research Questions

1. How effectively has India implemented international human rights treaties and conventions?
2. What are the key challenges India faces in complying with international human rights standards?

This study assesses India's role in promoting human rights both domestically and internationally. By evaluating legislative reforms, institutional mechanisms, and challenges, the paper provides insights into how India balances global obligations with local realities.

## II. INTERNATIONAL HUMAN RIGHTS INSTRUMENTS RATIFIED BY INDIA

India's commitment to human rights is evident through its ratification of several significant international treaties. The **Universal Declaration of Human Rights (UDHR)**, although non-binding, serves as a foundational document for global human rights principles, and India has drawn inspiration from it when framing its constitutional provisions. India ratified the **International Covenant on Civil and Political Rights (ICCPR)** in 1979, which guarantees essential rights such as freedom of expression, the right to life, and protection against arbitrary detention. Similarly, India ratified the **International Covenant on Economic, Social, and Cultural Rights (ICESCR)** alongside the ICCPR, ensuring the rights to education, work, and health, and promoting social justice.

In addition to these core treaties, India has ratified several conventions addressing specific human rights issues. The **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**, ratified in 1993, promotes gender equality and seeks to eliminate discrimination against women in various areas of life. India also ratified the **Convention on the Rights of the Child (CRC)** in 1992,<sup>8</sup> committing to protect children's rights to survival, education, and protection. The **Convention on the Rights of Persons with Disabilities (CRPD)** is aligned with India's 2016 **Rights of Persons with Disabilities Act**,<sup>9</sup> ensuring equal rights for disabled individuals. Furthermore, India ratified the **Convention on the Elimination**

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<sup>8</sup> Convention on the Rights of the Child, 1989, 1577 UNTS 3, ratified by India on Dec. 11, 1992.

<sup>9</sup> Convention on the Rights of Persons with Disabilities, 2006, 2515 UNTS 3, ratified by India on Oct. 1, 2007; Rights of Persons with Disabilities Act, 2016 (Act No. 49 of 2016).

of **Racial Discrimination (CERD)** in 1968<sup>10</sup>, committing to the fight against racial discrimination.

Despite these ratifications, India has made specific reservations to address domestic concerns. For example, under **CEDAW**, India reserved its position on **Article 5(a)**, relating to cultural and traditional roles, citing challenges in changing deeply ingrained societal norms. Similarly, under the ICCPR, India reserved its stance on provisions related to minority education, asserting that these were in alignment with its constitutional framework. These reservations reflect India's efforts to balance international obligations with domestic realities.<sup>11</sup>

### III. CONSTITUTIONAL AND LEGAL FRAMEWORK FOR HUMAN RIGHTS PROTECTION IN INDIA

India's Constitution incorporates international human rights principles through various provisions. The **Fundamental Rights in Part III** (Articles 14-32) guarantee equality, freedom, and justice to individuals, aligning with global human rights standards. The **Directive Principles of State Policy in Part IV** (Articles 39-47) emphasize socio-economic rights, including the right to health, education, and social welfare, which are integral to the realization of human dignity. **Article 51(c)** specifically encourages respect for international law, urging the state to foster the obligations set forth in international treaties. Additionally, **Article 253** empowers the Indian Parliament to enact laws to implement international treaties, ensuring that global commitments are reflected in national legislation.

Key legislations in India have been aligned with international human rights instruments, enhancing the domestic legal framework. The **Protection of Human Rights Act, 1993**<sup>12</sup> established the **National Human Rights Commission (NHRC)** and **State Human Rights Commissions (SHRCs)**, creating institutions to safeguard human rights at both national and state levels. The **Juvenile Justice Act (2015)**<sup>13</sup> adheres to the provisions of the **Convention on the Rights of the Child (CRC)**, focusing on child protection and welfare.

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<sup>10</sup> Convention on the Elimination of All Forms of Racial Discrimination, 1965, 660 UNTS 195, ratified by India on Dec. 3, 1968.

<sup>11</sup> United Nations, "India's Reservations/Declarations on International Human Rights Treaties," available at: <https://treaties.un.org/Pages/Treaties.aspx> (last visited Dec. 18, 2024).

<sup>12</sup> Protection of Human Rights Act, 1993 (Act No. 10 of 1994).

<sup>13</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (Act No. 2 of 2016).

The **Protection of Women from Domestic Violence Act, 2005**<sup>14</sup>, enacted in line with **CEDAW**, aims to combat domestic abuse and promote gender equality. Similarly, the **Rights of Persons with Disabilities Act, 2016** ensures the rights of disabled individuals, aligning with the **Convention on the Rights of Persons with Disabilities (CRPD)**, reflecting India's commitment to inclusivity and equality.

Indian courts have been instrumental in incorporating international human rights principles through judicial interpretation and activism. In **Vishaka v. State of Rajasthan (1997)**<sup>15</sup>, the Supreme Court referred to **CEDAW** to establish guidelines for addressing workplace sexual harassment, recognizing the need for legal protection against gender-based violence. In **People's Union for Civil Liberties v. Union of India (2001)**<sup>16</sup>, the Court declared the **right to food** as part of the **right to life** under **Article 21**, thus broadening the scope of fundamental rights. In **MC Mehta v. Union of India (1987)**<sup>17</sup>, the Supreme Court recognized **environmental protection** as a component of fundamental human rights, affirming the state's responsibility to safeguard environmental rights as part of ensuring a dignified life for its citizens. These landmark rulings demonstrate the judiciary's proactive role in upholding international human rights standards within the Indian legal system.

#### **IV. INDIA'S COMPLIANCE WITH INTERNATIONAL HUMAN RIGHTS OBLIGATIONS**

India has made significant progress in fulfilling its international human rights obligations, particularly through the active involvement of institutions like the **National Human Rights Commission (NHRC)** and the judiciary. The NHRC has been instrumental in addressing human rights violations, investigating complaints, and recommending legal reforms to strengthen human rights protection in India.<sup>18</sup> Judicial activism has also played a pivotal role in ensuring the protection of fundamental rights, especially for marginalized groups, with the Indian judiciary frequently interpreting constitutional provisions in alignment with international human rights principles.

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<sup>14</sup> Protection of Women from Domestic Violence Act, 2005 (Act No. 43 of 2005).

<sup>15</sup> Vishaka v. State of Rajasthan, AIR 1997 SC 3011.

<sup>16</sup> People's Union for Civil Liberties v. Union of India, AIR 2001 SC 2105.

<sup>17</sup> MC Mehta v. Union of India, AIR 1987 SC 1086.

<sup>18</sup> National Human Rights Commission of India, available at: <https://nhrc.nic.in/> (last visited Dec. 18, 2024).

Several key legislative reforms in India have also been aligned with international human rights standards. The **Juvenile Justice Act**, for instance, adheres to the provisions of the **Convention on the Rights of the Child (CRC)**, offering better protection for children's rights in areas like child abuse and exploitation.<sup>19</sup> Similarly, the **Protection of Women from Domestic Violence Act, 2005** incorporates the provisions of **CEDAW**, aiming to combat gender-based violence and protect women from domestic abuse. Additionally, the **Rights of Persons with Disabilities Act, 2016** ensures compliance with the **Convention on the Rights of Persons with Disabilities (CRPD)**, fostering inclusivity and equal rights for disabled individuals.

India has also demonstrated its commitment to human rights through active participation in international platforms. It regularly engages with the **United Nations Human Rights Council (UNHRC)** and participates in the **Universal Periodic Review (UPR)** process, which provides an opportunity for the country to assess and address its human rights challenges.<sup>20</sup>

Despite these efforts, India faces several challenges in effectively implementing international human rights treaties. **Socio-economic factors**, such as poverty, illiteracy, and income inequality, continue to impede the realization of human rights. Limited access to essential services like education and healthcare significantly hampers efforts to enforce rights under the **International Covenant on Economic, Social, and Cultural Rights (ICESCR)**.

Moreover, political and administrative challenges, such as governance inefficiencies and weak enforcement mechanisms, contribute to the delay and inadequate implementation of laws. There is also a lack of awareness among citizens about their rights, which further exacerbates systemic violations. India's **reservations on certain treaties**, such as those under **CEDAW** and **ICCPR**, reflect challenges in reconciling international obligations with domestic realities, particularly in areas like cultural norms and minority education.

Despite these advances, **case studies of non-compliance** illustrate the gaps in implementation. For instance, despite ratifying **CEDAW**, incidents of gender violence, such as the **Nirbhaya case**<sup>21</sup>, highlight the disconnect between legal frameworks and real-world protections for

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<sup>19</sup> UNICEF, "Child Rights and Protection in India," available at: <https://www.unicef.org/india> (last visited Dec. 18, 2024).

<sup>20</sup> United Nations Human Rights Council, "India and the Universal Periodic Review," available at: <https://www.ohchr.org/en/hr-bodies/upr> (last visited Dec. 18, 2024).

<sup>21</sup> Nirbhaya case (Mukesh v. State of NCT of Delhi), AIR 2017 SC 2161.

women. Similarly, the persistence of **child labour** and **trafficking**, despite legal frameworks aligned with the **CRC**, underscores the need for better enforcement. The delayed implementation of the **CRPD** provisions has also affected the accessibility and inclusion of people with disabilities, reflecting gaps in addressing their rights effectively.

## V. ROLE OF INSTITUTIONS IN IMPLEMENTING INTERNATIONAL HUMAN RIGHTS

The National Human Rights Commission (NHRC) holds a pivotal position in ensuring compliance with human rights standards in India. Established under the Protection of Human Rights Act, 1993, the NHRC investigates complaints, recommends policy reforms, and raises awareness about human rights violations.<sup>22</sup> It has successfully intervened in cases involving custodial violence, bonded labour, and child rights, ensuring greater accountability for such violations. Despite its achievements, the NHRC faces significant challenges, primarily due to its lack of enforcement powers. Furthermore, delays in acting on its recommendations often diminish its overall effectiveness, highlighting the need for structural and procedural improvements to enhance its impact.

At the state level, State Human Rights Commissions (SHRCs) play an essential role in addressing human rights violations and promoting accountability through a decentralized governance approach. These bodies investigate complaints, promote awareness, and recommend actions to protect fundamental rights. However, many SHRCs grapple with resource constraints, limited authority, and insufficient staffing, which hinder their capacity to address human rights issues effectively. The lack of adequate resources and power often results in delayed responses and limited enforcement of their recommendations. Strengthening SHRCs by providing greater authority and financial resources would enable them to function more effectively and enhance the protection and promotion of human rights at the state level.

Civil society organizations and non-governmental organizations (NGOs) also play a critical role in advocating for human rights, monitoring violations, and supporting implementation efforts. International organizations such as Amnesty International<sup>23</sup> and Human Rights Watch<sup>24</sup> document abuses and campaign for systemic reforms, while domestic NGOs, including CRY

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<sup>22</sup> Protection of Human Rights Act, 1993 (Act No. 10 of 1994).

<sup>23</sup> Amnesty International, available at: <https://www.amnesty.org> (last visited Dec. 18, 2024).

<sup>24</sup> Human Rights Watch, available at: <https://www.hrw.org> (last visited Dec. 18, 2024).

(Child Rights and You)<sup>25</sup> and Majlis, work on specific issues like child protection and women's rights. Their contributions have been significant in various contexts, such as the landmark *Vishaka v. State of Rajasthan* judgment, where NGO efforts helped frame guidelines to prevent workplace sexual harassment (AIR 1997 SC 3011). NGOs continue to serve as vital stakeholders in bridging the gap between legal frameworks and their practical implementation, driving accountability and reform.

## **VI. CONTEMPORARY CHALLENGES TO INDIA'S HUMAN RIGHTS COMPLIANCE**

Conflict zones in India, particularly in regions like Jammu & Kashmir and parts of the Northeast, continue to face significant human rights violations. Issues such as arbitrary detentions, enforced disappearances, and severe restrictions on freedom of expression are reported regularly by human rights organizations. The ongoing security concerns in these areas often lead to the imposition of laws like the Armed Forces (Special Powers) Act (AFSPA),<sup>26</sup> which grants excessive power to the military and security forces, contributing to a lack of accountability for human rights abuses. This situation highlights the urgent need for a more balanced approach that addresses both the security needs of the state and the protection of fundamental human rights of civilians. In these areas, the challenge remains in ensuring that counter-insurgency measures do not undermine basic freedoms and human dignity.

In addition to the challenges faced in conflict zones, vulnerable groups such as women, children, transgender persons, refugees, and migrant workers in India remain disproportionately affected by human rights violations. Despite the existence of legal frameworks like CEDAW, women continue to face high rates of domestic violence, dowry deaths, and sexual harassment. These issues are especially prevalent in rural and underdeveloped areas, where cultural norms often undermine the enforcement of laws designed to protect women's rights. Children are another group significantly impacted, with child labour and trafficking still widespread, particularly in economically disadvantaged areas. While there are legal protections in place, the actual implementation of these laws often falls short, leaving children vulnerable to exploitation. Transgender individuals also continue to face considerable challenges, despite the passage of the Transgender Persons (Protection of Rights) Act, 2019.<sup>27</sup>

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<sup>25</sup> CRY (Child Rights and You), available at: <https://www.cry.org> (last visited Dec. 18, 2024).

<sup>26</sup> Armed Forces (Special Powers) Act, 1958 (Act No. 28 of 1958).

<sup>27</sup> Transgender Persons (Protection of Rights) Act, 2019 (Act No. 40 of 2019).

Social stigma, discrimination, and a lack of proper enforcement prevent them from fully enjoying their rights. Refugees and migrant workers, meanwhile, face a legal void, as India is not a signatory to the 1951 Refugee Convention,<sup>28</sup> which leaves them without adequate protection or rights, making them susceptible to exploitation and abuse.

Economic policies and large-scale development projects, which aim to drive national growth, have a direct impact on marginalized communities, particularly in terms of displacement and environmental degradation. Infrastructure projects, such as the Narmada Dam,<sup>29</sup> have historically led to the forced relocation of communities without adequate compensation or rehabilitation. These projects often prioritize economic development over the rights of affected individuals, leaving marginalized communities without sufficient safeguards. Striking a balance between economic growth and the protection of human rights remains one of India's most significant challenges, especially as such projects often result in irreversible environmental damage.

Emerging challenges in the digital era also pose new human rights risks, particularly concerning privacy, surveillance, and freedom of expression. As technology continues to evolve, issues related to personal privacy are becoming more prominent.<sup>30</sup> The Aadhaar system<sup>31</sup>, for example, has raised concerns about the security of personal data, while instances of surveillance tools such as Pegasus spyware<sup>32</sup> have highlighted the potential for privacy violations. Furthermore, freedom of expression is increasingly under threat, with restrictions being placed on digital platforms and individuals being arrested under the Information Technology Act<sup>33</sup> for expressing dissent. These developments threaten the democratic fabric of the country and reflect broader concerns about shrinking space for free speech and civic engagement in the digital age. Balancing technological advancement with the preservation of fundamental human rights is crucial in addressing these emerging challenges.

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<sup>28</sup> Refugee Convention, July 28, 1951, 189 U.N.T.S. 150.

<sup>29</sup> Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 664.

<sup>30</sup> Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

<sup>31</sup> Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (Act No. 18 of 2016).

<sup>32</sup> Pegasus spyware case, IT Standing Committee Report, available at <https://prsindia.org> (last visited Dec. 18, 2024).

<sup>33</sup> Information Technology Act, 2000 (Act No. 21 of 2000).

## VII. RECOMMENDATIONS FOR STRENGTHENING COMPLIANCE

Strengthening India's legislative mechanisms is essential for meeting international human rights obligations and safeguarding vulnerable populations. While significant progress has been made through laws like the Domestic Violence Act, 2005, and the Sexual Harassment Act, 2013,<sup>34</sup> issues such as gender violence, child exploitation, and systemic discrimination persist. Legislative reforms must address these gaps by ensuring stricter implementation and alignment with international conventions, such as CEDAW and ICCPR. Emerging issues like digital rights and data privacy also demand robust legal responses to balance development and individual freedoms.

Efficient enforcement mechanisms are equally critical. Institutions like the NHRC and SHRCs play a pivotal role but face operational challenges, including inadequate funding and limited enforcement powers.<sup>35</sup> Strengthening their authority, streamlining processes, and enhancing collaboration with law enforcement can ensure timely redressal of human rights violations. At the state level, addressing capacity gaps and training personnel can improve access to justice in rural areas.

The judiciary has been instrumental in upholding constitutional rights and aligning them with international standards, as demonstrated in landmark cases like *Vishaka v. State of Rajasthan* and *NALSA v. Union of India*<sup>36</sup>. However, judicial delays and case backlogs undermine access to justice. Fast-track courts, digital systems, and alternative dispute resolution mechanisms can enhance efficiency. Judicial accountability and progressive interpretation of rights are essential for bridging legislative gaps and protecting marginalized groups.

Public awareness and education are foundational to promoting human rights. Grassroots campaigns and integrating human rights education into school curricula can empower citizens to recognize and assert their rights. Collaboration with civil society and NGOs can further build a rights-conscious society.

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<sup>34</sup> The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Act No. 14 of 2013).

<sup>35</sup> National Human Rights Commission, "Annual Report," available at <https://nhrc.nic.in> (last visited Dec. 18, 2024).

<sup>36</sup> *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438.



Proactive engagement with international mechanisms like the Universal Periodic Review (UPR)<sup>37</sup> and treaty-monitoring bodies can foster accountability and align domestic frameworks with global standards. Transparent reporting and constructive dialogue will strengthen India's global leadership in human rights.

## VIII. CONCLUSION

India's commitment to international human rights treaties is reflected in its ratification of major instruments and incorporation of principles into domestic laws. The judiciary, NHRC, and NGOs have played pivotal roles in advancing human rights, while legislative reforms have addressed gender equality, child rights, and disability inclusion. Aligning with international standards has led to significant achievements, such as improved legal protections for marginalized groups and India's active participation in global human rights mechanisms. However, challenges like poverty, socio-political barriers, and delayed implementation persist.

### The Way Forward

To strengthen human rights compliance, India must focus on:

- Enacting stronger legislative frameworks for vulnerable sections.
- Enhancing implementation agencies like NHRC and SHRCs.
- Promoting judicial accountability and grassroots awareness.
- Engaging proactively with international mechanisms to address systemic gaps.

By prioritizing domestic enforcement, legislative reforms, and international cooperation, India can emerge as a stronger advocate for human rights, both nationally and globally.

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<sup>37</sup> The Universal Periodic Review, United Nations Human Rights Council, available at <https://www.ohchr.org> (last visited Dec. 18, 2024).