

Placing International Law within the Domestic Context through Constitutional Recognition: A Policy Oriented Approach

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International law that primarily governs the relationship between the interaction of States even at the beginning of the 20th century has now evolved into a comprehensive body of law that governs subject areas such as family law and property law through the international standards set out in many of the human right treaties across the world, which were an exclusive part of the domestic law. Though the impact of international law has become undeniable, how countries have utilized international law in their domestic legal system has not found any specific pattern. While a country may be free to adopt its own methodology of adopting or transforming international law into the domestic legal system, the main research problem addressed through this paper relates to the question of as to how the constitutional framework could be utilized to place international law within the domestic legal system through an policy oriented approach, and by policy it is intended to analyse how a country could best utilize international law in the domestic context by considering the constitutional structure of a country along with its own social, economic and cultural realities. This analysis is carried out utilizing the doctrinal approach, and the results have revealed that such a constitutional mechanism could help to make international law more obligatory and directory, demarking the competencies of the governmental institutions regarding the recognition and implementation of international law, advancing the pith and substance of constitutional rights, selecting international obligations possible of being given effect at the domestic level and the general advancement of domestic human rights norms by upscaling them with international standards. In this context, it is highly recommended that a proper constitutional framework be instilled with a policy-oriented approach for the recognition and implementation of international law at the domestic sphere.

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