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INTERNATIONAL LAW

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I INTRODUCTION

THIS SURVEY of cases provides an overview of essential judgments delivered by Indian courts in 2024, focusing on how international law has been referred to or applied in domestic proceedings. The decisions reflect a growing judicial openness to incorporating international legal principles where they align with constitutional values and legislative intent.

In several of these cases, the courts demonstrated a careful approach to interpreting domestic laws in light of international standards. While international law is not automatically enforceable in India without enabling legislation, the judiciary continues to engage with it as a persuasive tool, especially in areas concerning rights, equality, and good governance. The cases show how international norms can support the evolution of domestic jurisprudence in line with global legal developments.

II SUPREME COURT CASES

The Supreme Court in *Ashok Kumar Sharma v. Union of India*¹ observed, in the midst of a raging conflict in Gaza, a group of retired civil servants, human rights advocates, scholars, and public intellectuals approached the Supreme Court of India with a plea. The petitioners sought directions under Article 32 of the Constitution for the Union Government to cancel existing licences and halt the grant of new licences permitting the export of arms and military equipment from India to Israel, citing India's commitment to international humanitarian law and treaties prohibiting assistance to nations accused of war crimes and genocide. The four Geneva Conventions of 1949, which regulate the laws of armed conflict, were incorporated into domestic law as the Geneva Act of 1960.

Their submission was anchored not only in moral grounds but also in legal obligations flowing from the Genocide Convention and in constitutional duties imposed by articles 14, 21, and 51(c). The counsel appearing for the petitioners invoked precedents from the International Court of Justice regarding Israel's conduct, urging the Indian judiciary to prevent India from becoming complicit in international law violations.

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¹ *Ashok Kumar Sharma v. Union of India*, AIR 2020 SC 5274.

The primary legal issue before the court was whether it could, under Article 32 of the Constitution, direct the Union Government to cancel existing defence export licences and restrain the grant of future licences to a foreign country engaged in armed conflict, based on alleged violations of international law and India's constitutional commitments.

The court held that it could not grant the relief sought for several reasons. *First*, the petition required the court to examine the conduct of a sovereign foreign nation, *i.e.*, Israel, which was not a party to the proceedings and was outside the jurisdiction of the Indian judiciary. It would be constitutionally impermissible for the court to make determinations against a foreign sovereign. *Second*, the court emphasised that matters concerning foreign policy and international trade fall within the exclusive domain of the executive under article 73. The Parliament has authority under article 253 to enact laws for implementing international treaties, and it is not within the court's power to issue directions in such matters. *Third*, the court noted that the cancellation of licences could potentially interfere with existing international commercial contracts. Judicial intervention might expose Indian companies to liability and economic loss, especially where binding commitments had already been made. Such consequences cannot be adequately assessed or managed by the judiciary. *Finally*, the court noted that existing laws, such as the Foreign Trade Act and the Customs Act, empower the Union Government to prohibit such exports if necessary. The decision to act under these laws involves economic, geopolitical, and strategic considerations that are best left to the government.

The Supreme Court concluded that the reliefs sought by the petitioners were not maintainable under article 32. The court rightly reaffirmed the principle that courts must refrain from interfering in matters of foreign policy and international relations.

*Nipun Malhotra v. Sony Pictures Films India Private Limited.*² case involved an examination of legal protections under the Rights of Persons with Disabilities Act, 2016, and the constitutional guarantees under articles 14 and 21. The Supreme Court also engaged with relevant international instruments, particularly the UN Convention on the Rights of Persons with Disabilities (CRPD), to interpret the rights of persons with disabilities in the context of media representation.

The petitioner, a disability rights activist, approached the Supreme Court challenging the portrayal of persons with disabilities in the Bollywood film "*Aankh Micholi*." It was alleged in the petition that the film presented characters with disabilities in a derogatory and stereotypical manner, thereby violating their dignity and reinforcing harmful social attitudes. The petition was filed after the High Court of Delhi had dismissed his writ petition on grounds of procedural non-maintainability. The appeal thus raised substantive questions on the intersection of freedom of expression, media regulation, and the rights of persons with disabilities.

² 2024 INSC 465.

The central question before the Supreme Court was whether the depiction of persons with disabilities in the film violated the anti-discrimination mandates of Indian law and international obligations under the CRPD. The petitioner sought specific reliefs, including the deletion (beeping) of objectionable parts of the film, a direction to produce an awareness film on disability, and the inclusion of disability rights expertise in the Central Board of Film Certification (CBFC).

The court grounded its analysis in the rights-based approach endorsed by the CRPD, which India has ratified. It emphasised the convention's foundational principles, including the principles of inherent dignity, equality, and non-discrimination. Article 5 of the CRPD, which guarantees equal protection of the law, and article 8, which calls on states to combat stereotypes and promote awareness, were key reference points in the court's reasoning.

To strengthen its interpretative approach, the court drew on the General Comment on Article 5 of the CRPD by the CRPD Committee, which underscores states' responsibility to counter discriminatory media portrayals. The court also cited international jurisprudence, including the European Court of Human Rights decision in *Glor v. Switzerland*³, and the CRPD Committee's observations in *Bacher v. Austria*⁴, both of which reinforced the obligation to uphold disability rights in all spheres, including the media. Although the World Programme of Action Concerning Disabled Persons was acknowledged for its historical context, the court emphasised the binding nature of the CRPD as the contemporary international legal standard.

While the Supreme Court declined to grant the specific reliefs sought, such as content modification or the mandated inclusion of disability rights experts in film certification, it delivered a strong message on the ethical and legal responsibilities of filmmakers and media creators. The court articulated a normative framework for the portrayal of disability in Indian cinema, emphasising dignified, respectful, and accurate representation. It held that media must avoid reinforcing harmful stereotypes and instead reflect the lived experiences of persons with disabilities with sensitivity and nuance.

By aligning its reasoning with both constitutional values and international human rights standards, the court set an important precedent for how content creators should approach disability representation. Although no censorship or structural reforms were mandated, the judgment laid down guiding principles that signal an expectation of higher accountability standards from the media industry. In doing so, the court contributed meaningfully to the evolving legal discourse on disability rights in India.

*Rajeev Kumar Upadhyay v. Srikant Upadhyay*⁵ involved alleged offences under various provisions of the Indian Penal Code, 1860, and the Witchcraft

3 *Glor v. Switzerland*, Application No.13444/04, April 30, 2009.

4 *Bacher v. Austria*, CRPD/C/19/D/26/2014.

5 2024 INSC 1008.

(Removal) Act. The case also implicated constitutional protections under article 21 and fundamental duties under article 51A(e) of the Constitution of India. Additionally, India's obligations under international instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), and the Universal Declaration of Human Rights (UDHR) were considered in the Court's reasoning.

The case arose from an alarming incident in which two women were accused of witchcraft and subjected to public disrobing, assault, and other forms of physical and verbal abuse. A First Information Report (FIR) was registered against thirteen individuals. Following the investigation, the police filed a chargesheet against only one of the accused. However, the Additional Chief Judicial Magistrate took cognizance of all thirteen named in the FIR. The Sessions Judge declined to interfere with this order, leading the accused to approach the high court by way of a criminal miscellaneous petition seeking the quashing of the proceedings. The High Court granted an interim stay of the proceedings, which applied specifically to the petitioners. The original complainant challenged this order in the Interim Court before the Supreme Court.

The principal issue before the Supreme Court was the propriety and legality of the high court's grant of a stay of criminal proceedings in a case involving serious allegations of violence and public humiliation rooted in superstition and gender-based discrimination. The court was required to consider whether such a stay was justifiable, especially in light of the broader societal implications and the need to uphold human dignity.

The Supreme Court expressed grave concern over the nature of the allegations, noting that acts of violence based on accusations of witchcraft represent an egregious assault on human dignity, disproportionately targeting vulnerable women. The court observed that such incidents, rooted in superstition and patriarchy, persist in modern society and reflect deeper issues of social control and gender-based violence.

While reaffirming the principle that an accused is presumed innocent until proven guilty, the court criticised the high court's mechanical approach in granting a stay, without sufficient examination of the facts or a reasoned order. It stressed that a stay of criminal proceedings should not be granted as a matter of course but only after a careful assessment of the *prima facie* case and a determination of whether irreparable prejudice would result from the denial of such relief. In cases involving offences that strike at the core of individual dignity, particularly of women, courts must exercise heightened sensitivity and diligence.

In its reasoning, the court anchored its analysis in constitutional values, particularly the right to live with dignity under article 21, and the fundamental duty under article 51A(e) to renounce practices derogatory to the dignity of women. The court cited key precedents affirming dignity as a central constitutional value and also invoked India's international commitments. Specifically, it referred to

CEDAW, highlighting articles 2 and 5, which oblige State parties to eliminate discrimination and address cultural practices that perpetuate harmful stereotypes. The court further took note of international resolutions and reports from the UN Human Rights Council and the Office of the High Commissioner for Human Rights, which condemn harmful traditional practices, including those involving accusations of witchcraft, due to their disproportionate impact on women and girls.

The court expressed deep concern at the persistence of such medieval and inhumane practices, emphasising that acts like public disrobing on allegations of witchcraft are not only criminal but also a direct assault on the dignity and equality of women, warranting the highest degree of judicial scrutiny. It held that a stay of criminal proceedings in such cases cannot be granted mechanically, especially when the investigation has shown inconsistencies and the trial involves profound human rights implications.

Although the Supreme Court refrained from directly invalidating the high court's interim stay due to the withdrawal of the quashing petition, it issued a strong directive to the district court to proceed on a day-to-day basis against all the accused. The decision reflects a firm judicial resolve to uphold India's constitutional and international human rights obligations, particularly towards women facing systemic and superstition-driven violence.

This judgment illustrates the Supreme Court's integrative approach to international human rights instruments, using them not merely as aspirational texts but as binding interpretive aids that deepen and reinforce constitutional protections. By situating the right to dignity and protection from gender-based violence within both the domestic constitutional framework and international legal obligations, the court affirmed its role as a global human rights court in matters implicating India's treaty commitments.

In *T.N. Godavarman Thirumulpad v. Union of India*⁶ case involved a challenge to the establishment of a proposed 'Tiger Safari' in the buffer zone of the Corbett Tiger Reserve, specifically in the Pakhrau range. Allegations of illegal construction activity, ecological degradation, and diversion from core conservation objectives prompted judicial scrutiny. Central to the case were questions concerning the legality of such safari projects in ecologically sensitive areas and the compliance of the ongoing project with both statutory and ecological safeguards.

Although the Supreme Court's decision primarily relied on the statutory interpretation of Indian law, it made an explicit reference to the Convention on Biological Diversity (CBD). The court mentioned that the CBD, to which India is a party, establishes a comprehensive legal framework for the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from genetic resources. The court's observations on the ecological importance of tigers as apex predators and indicators of ecosystem health mirror the CBD's definition of biological diversity under article 2 and its strong preference for in-situ conservation as outlined in article 8.

6 2024 INSC 997.

The court's insistence that any 'Tiger Safari' be restricted to buffer zones and serve conservation-oriented functions such as rehabilitation of injured, conflict, or orphaned tigers, rather than act as a mere tourist attraction dependent on captive animals, aligns with the CBD's emphasis on sustainable use under article 10 and the integration of biodiversity considerations into sectoral policies. Furthermore, the judgment's firm stance against illegal constructions and ecological degradation within protected habitats echoes India's obligations under article 3 and article 8(d) and (f) of the CBD, which call for the prevention of environmental harm and restoration of degraded ecosystems.

By demanding accountability from public officials and directing a CBI investigation, the court emphasised the need for robust legal and institutional mechanisms to uphold biodiversity obligations. These directions further the CBD's objectives, especially those articulated in the Preamble, which recognise that States have the sovereign right to exploit their own resources in accordance with their environmental policies, but also the responsibility to ensure that activities within their jurisdiction do not cause ecological damage.

In conclusion, while the Supreme Court's reasoning was rooted in domestic conservation law, its decision is contextualised within the normative influence of international environmental law, particularly the Convention on Biological Diversity. By requiring strict compliance with conservation-oriented guidelines and rejecting activities detrimental to natural habitats, the court reinforced the principle that ecological protection must take precedence over ad hoc development projects in sensitive ecosystems.

The judgment thus affirms that tiger conservation is not only a matter of national ecological policy but also a global obligation, with the CBD providing the overarching legal framework. The Supreme Court's approach exemplifies how domestic courts can align their jurisprudence with international environmental standards, thereby strengthening both constitutional and treaty-based mandates for biodiversity conservation.

In *M.K. Ranjitsinh v. Union of India (UOI)*⁷ case, the Supreme Court of India, addressed a critical conflict between the urgent need to conserve the critically endangered Great Indian Bustard (GIB), whose dwindling population is further threatened by collisions with power lines in its habitat, and India's significant international legal obligations under the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement to transition to clean energy sources like solar power, which these very habitats are ideal for.

The petitioner sought sweeping directives, including the dismantling of power lines, to protect the GIB. However, the court recognised that the geographical landscape of Gujarat and Rajasthan, the primary remaining habitat of the GIB, is also ideally suited for solar energy generation. This solar energy development is a cornerstone of India's strategy to meet its ambitious targets under the Paris

7 INSC 2024 SC 280.

Agreement, specifically its Nationally Determined Contribution (NDC) to achieve a substantial proportion of its power capacity from non-fossil fuels by 2030.

The court acknowledged India's commitments under the UNFCCC to collectively address climate change, as well as its specific pledges under the Paris Agreement to reduce emissions and expand renewable energy. A blanket order to dismantle or underground all power lines in the vast GIB habitat, while potentially beneficial for the bird, could severely impede the development of solar power in these prime locations.

Therefore, the court's decision to recall its earlier sweeping order and appoint an Expert Committee was a direct consequence of balancing the dire conservation status of the GIB with India's binding international legal commitments under the UNFCCC and the Paris Agreement regarding climate change mitigation through renewable energy. The Committee's mandate was to find a science-based solution that protects the GIB from power line collisions without undermining India's progress towards its renewable energy targets and its fulfilment of its global climate commitments. The case thus exemplifies a direct judicial engagement with the tension between specific species conservation needs and broader international legal obligations concerning climate change.

In this case, *Society for Enlightenment and Voluntary Action v. Union of India*⁸ the Supreme Court delivered a significant judgment addressing the persistent prevalence of child marriage in India and the institutional failures in enforcing the Prohibition of Child Marriage Act, 2006 (PCMA). Recognising the disproportionate impact of child marriage on young girls and its far-reaching consequences, the court situated its analysis within the framework of constitutional guarantees and India's obligations under international law. The court underscored that child marriage constitutes a violation of the dignity and autonomy of the girl child and impedes her access to health, education, and safety, ultimately compromising her ability to lead a life of choice and freedom.

The court referred extensively to the Convention on the Rights of the Child (CRC), ratified by India in 1992, noting that child marriage is incompatible with several of its core provisions. Article 1 of the CRC defines a child as every human being below the age of eighteen years, unless the age of majority is attained earlier under applicable law. Article 2 prohibits discrimination on any ground, ensuring that all children enjoy their rights without exclusion. Article 3 mandates that the best interests of the child shall be a primary consideration in all actions concerning them. Article 6 affirms every child's inherent right to life and mandates that States ensure their survival and development to the maximum extent possible. The Court noted that child marriage gravely impairs the health and growth of girls, exposing them to early pregnancy, violence, and social exclusion.

Article 12 of the CRC recognises the right of every child to be provided with information that assists their understanding of issues affecting them. The court

8 2024 INSC 790.

observed that child marriage deprives girls of the opportunity to participate meaningfully in decisions about their own lives. Article 19 requires States to take all appropriate measures to protect children from all forms of physical or mental violence, injury or abuse, neglect, and exploitation. Article 28 of the CRC recognises the right of every child to education, and article 29 outlines its aims, including the development of the child's personality, talents, and abilities to their fullest potential. The Court held that child marriage significantly disrupts education, particularly for girls, and perpetuates cycles of dependence and marginalisation. Article 34 provides a right to protection from sexual exploitation and abuse. It further defines child marriage as a form of sexual exploitation.

The judgment also referred to article 16 of the Universal Declaration of Human Rights (UDHR), which provides that marriage shall be entered into only with the free and full consent of the intending spouses. The court emphasised that minors cannot give such free and informed consent, rendering the practice inherently violative of this principle. Under article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the right to education is recognised, and the Court held that early marriage interferes with this right. In addition, article 16(2) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) mandates that child marriage shall have no legal effect and that States must take legislative action to specify a minimum age for marriage and ensure its compulsory registration. The court also referenced the Convention for the Abolition of Slavery and its supplementary conventions, noting that child marriage can amount to a form of servile marriage, especially where girls are treated as property or subjected to forced domesticity.

Ultimately, the court found that the failure to implement the PCMA, particularly through the non-appointment of Child Marriage Prohibition Officers (CMPO), constitutes a grave violation of the rights of the child under both domestic and international law. It issued binding directions to all state governments and Union Territories to comply with their obligations under the Act, ensure the appointment of CMPOs, and create monitoring mechanisms.

*Omkar Ramchandra Gond v. Union of India*⁹ underscores the evolving jurisprudence around inclusive education and the rights of persons with disabilities. The Supreme Court here addressed whether a quantified speech and language disability exceeding 40% could disqualify a candidate from pursuing a medical degree. The appellant, certified to have a 44%–45% speech and language disability, was denied admission under the Persons with Disabilities (PwD) category despite clearing the NEET examination. Relying on a clause in the 2019 notification by the National Medical Commission (NMC), the Disability Certification Centre at Sir JJ Group of Hospitals declared the appellant ineligible solely based on the quantified percentage of his disability. The case eventually reached the Supreme Court, which had earlier directed that the appellant's potential seat be kept vacant and a

9 2024 INSC 775.

domain-expert Medical Board examine whether his disability would impede his medical education. The Board opined that it would not.

While analysing the issue, the court placed the case within a broader constitutional and international legal framework. It referred to Article 41 of the Constitution, emphasising the State's duty to make adequate provisions for securing the right to education and assistance in cases of disablement. The court also examined the Rights of Persons with Disabilities Act, 2016 (RPwD Act), enacted to fulfil India's obligations under the United Nations Convention on the Rights of Persons with Disabilities (CRPD). The court referenced the principles embedded in the Convention, including respect for individual dignity, non-discrimination, complete and adequate participation, and equality of opportunity. It found that the impugned NMC guidelines failed to embody these standards by applying a rigid "one-size-fits-all" 40% disability threshold for eligibility.

Crucially, the court drew on the precedent in *Jeeja Ghosh v. Union of India*¹⁰ to articulate the interplay between non-discrimination and reasonable accommodation in international human rights law. Citing this decision, it reiterated that positive rights, including affirmative action, must supplement formal equality, and that discrimination arises not just from overt denials but also from exclusionary standards. The court also referred to *Vikash Kumar v. UPSC*¹¹ to explain that reasonable accommodation entails a positive obligation on the State and others to tailor opportunities for persons with disabilities. It clarified that reasonable accommodation extends beyond assistive devices to include systemic modifications that ensure access and participation. Accordingly, a literal interpretation of Appendix H-1 of the NMC guidelines, which excluded all candidates with a speech and language disability of over 40%, was found to violate the RPwD Act and international commitments.

In line with these principles, the court directed that Disability Assessment Boards must not rely solely on quantified percentages to assess eligibility for education. Instead, they must offer reasoned conclusions about whether a candidate's specific disability impedes their capacity to pursue the course. Until new NMC regulations are framed in accordance with the government's communication dated 25 January 2024, the court held that the existing guidelines must be read down to reflect these constitutional and international mandates. Ultimately, the court confirmed the appellant's admission and held that quantified disability alone cannot be a ground for disqualification, affirming the necessity of individualised assessments and systemic inclusivity in line with India's obligations under international human rights law.

In *Vedanta Ltd. v. State of T.N.*,¹² Vedanta Limited operated a copper smelter in Thoothukudi, Tamil Nadu. The plant was ordered to be closed by the Tamil Nadu Pollution Control Board (TNPCB) and the state government due to repeated

10 (2016) 7 SCC 761.

11 (2021) 5 SCC 370.

12 2024 INSC 175.

and serious environmental violations. This included failure to submit groundwater quality reports, illegal dumping of copper slag on third-party land, long-term operation without valid authorisation for hazardous waste management, non-compliance with air quality standards, and failure to obtain TNPCB consent to operate for nearly 16 years. The plant also failed to maintain a required green belt and had a history of polluting the local air and water, as noted in earlier judicial proceedings, including a 2013 Supreme Court judgment.

Vedanta challenged the High Court of Madras decision upholding the closure by filing Special Leave Petitions and Civil Appeals before the Supreme Court. The TNPCB also filed appeals challenging specific observations by the high court regarding its delayed enforcement action.

The Supreme Court dismissed all appeals. It upheld the closure of the plant, finding no reason to interfere with the high court's findings. The court agreed that Vedanta's violations were serious, long-standing, and harmful to the environment and public health. It also found the high court's criticism of the TNPCB justified, given the delay in taking action against the violations.

Although the court's decision was based on domestic environmental laws, it referred to key principles of international environmental law. It applied the Polluter Pays Principle, stating that polluting industries must bear the costs of the damage they cause. The Court also referred to the Public Trust Doctrine, emphasising the State's duty to protect natural resources for the benefit of the people. In addition, the Court mentioned international instruments, including the Universal Declaration of Human Rights, the Convention on Biological Diversity (CBD), and the Paris Agreement. These references helped the court frame the right to a clean environment as a fundamental human right and highlighted India's international responsibility to conserve biodiversity and combat environmental harm.

The court also referred to the principle of intergenerational equity, recognising that current generations must protect the environment for future generations. It noted that the long-term damage caused by the smelter was inconsistent with this duty. Therefore, the Supreme Court upheld the closure of Vedanta's smelter, prioritising environmental protection and public health over industrial activity. By invoking international principles and treaties, the court reinforced the importance of sustainable development and accountability in environmental matters.

III HIGH COURT CASES

The decision of the High Court of Delhi in *Mahaveer Singhvi v. Hindustan Times Ltd.*¹³ case presents a measured and detailed examination of the limits of journalistic freedom, the right to reputation, and the standards governing civil defamation in India. The case arose from the publication of an article by Hindustan Times, which the plaintiff, a serving diplomat, claimed was defamatory. The primary question before the court was whether the contents of the article transgressed the

13 (2024) SCC OnLine Del 4409.

limits of fair comment and amounted to actionable defamation under civil law. In addressing this issue, the court engaged not only with domestic legal standards but also made a significant reference to international legal instruments that protect both freedom of expression and the right to reputation, thereby reinforcing the relevance of international norms in the Indian legal context.

The court noted that freedom of expression, protected under Article 19(1)(a) of the Constitution of India, is a fundamental right essential to the functioning of a democratic society. It further observed that this right finds recognition in Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 of the European Convention on Human Rights (ECHR). However, the court was careful to point out that the right is not unqualified. Referring to Article 19(3) of the ICCPR and Article 10(2) of the ECHR, it highlighted that restrictions on free expression are permissible when they serve to protect the rights or reputation of others. Reference was also made to Article 12 of the Universal Declaration of Human Rights (UDHR), which recognises an individual's right to protection against arbitrary attacks on reputation. These international provisions were not cited in isolation but were brought into the interpretive fold to support the balancing exercise between freedom of speech and the right to reputation.

In applying these principles, the court considered the role of the press and the responsibilities that accompany journalistic expression. It relied on the jurisprudence of the European Court of Human Rights to affirm that, while criticism of public officials is afforded greater protection in democratic societies, that protection does not extend to false, unverified, or malicious assertions of fact. Journalistic freedom includes a duty to report fairly and accurately, and when reporting ventures into unverified allegations without sufficient basis, it may give rise to liability. Notably, the court reiterated that under both international law and Indian constitutional principles, expressions made with actual malice or a reckless disregard for the truth do not attract protection under the right to freedom of speech.

On the facts, the court held that the article in question did not merely offer a critical opinion but made factual assertions that were unsubstantiated and had the potential to harm the plaintiff's reputation seriously. These statements, according to the court, could not be shielded under the defences of fair comment or public interest reporting. The court's reasoning was supported by its references to both Indian legal standards and international human rights instruments, which were used to define the boundaries of permissible expression in matters affecting individual reputation.

The High Court of Delhi *Rachita Francis Xavier v. Union of India*¹⁴ decision in this case arose from the peculiar yet compelling case of a 17-year-old girl born and raised in India, rendered stateless due to her parents' prior renunciation of Indian citizenship. Despite her unbroken residence in India, education in Indian institutions, and strong social and familial connections, the petitioner was denied

¹⁴ *Rachita Francis Xavier v. Union of India* 2024 SCC OnLine Del 3612.

a passport based on the Ministry of External Affairs' Office Memorandum dated October 25, 2018, which stipulated that a child born in India to two foreign nationals does not qualify for Indian citizenship. The court critically examined this denial through the lens of both domestic statutory law and international human rights instruments, with particular focus on whether it was arbitrary under the Indian Constitution and international law.

At the heart of the court's reasoning was the recognition of India's obligations under various international legal instruments to which it is a signatory. The court invoked Article 15 of the Universal Declaration of Human Rights (UDHR), which affirms that "*everyone has the right to a nationality*" and prohibits arbitrary deprivation of the same. Emphasising India's historical commitment to the UDHR, the judgment underlined how rendering the petitioner stateless by denying her citizenship and, by extension, a passport, would contravene this fundamental human right. The court further drew upon article 24(3) of the International Covenant on Civil and Political Rights (ICCPR), ratified by India in 1979, which provides that every child has the right to acquire a nationality. This was reinforced by reference to *People's Union of Civil Liberties v. Union of India*, in which the Supreme Court held that international law, particularly in the field of human rights, should guide the interpretation of domestic law when not in conflict with it.¹⁵

Further, the court referred to articles 7 and 8 of the Convention on the Rights of the Child (CRC), also ratified by India, which stress the right of every child to acquire a nationality and preserve their identity, and require States to act swiftly to restore such identity where wrongfully denied. The judgment highlighted that the non-recognition of the petitioner's nationality rights had effectively stripped her of her identity and curtailed her access to fundamental human rights, thereby violating these international obligations. The global framework thus provided the backdrop against which the court evaluated the legality and reasonableness of the impugned decision.

Balancing these international norms with domestic law, the court held that the petitioner was not an "illegal migrant" under section 2(1)(b) of the Citizenship Act, 1955, and qualified as a "person of Indian origin" by virtue of her mother's birth in India. In light of section 5(4) of the Citizenship Act, which empowers the Central Government to register a minor as an Indian citizen under exceptional circumstances, the court found this provision to be squarely applicable. Given the petitioner's continuous residence in India, the absence of any foreign passport, and her stateless condition, the court directed that her application for Indian citizenship be processed within 30 days and that she be granted a passport thereafter.

The High Court of Delhi *Master Arnesh Shaw v. Union of India*¹⁶ examined the grave and urgent concerns of children with rare diseases, placing significant

¹⁵ *People's Union of Civil Liberties (PUCL) v. Union of India (UOI)*, 1992 Supp (2) SCC 647.

¹⁶ 2024 SCC OnLine Del 7114.

emphasis on the State's responsibilities under both domestic constitutional provisions and binding international legal instruments. The matter extended beyond a conventional assessment of administrative duty, evolving instead into a broader inquiry into the jurisprudence of care owed to some of the most vulnerable members of society. The court's reasoning reflected a deliberate and nuanced engagement with international legal obligations, treating them not as peripheral references but as essential components in the interpretation and realisation of the right to health.

The court observed that India, despite resource constraints, has willingly undertaken binding international commitments to uphold human dignity and the right to health. It referred to the Universal Declaration of Human Rights (UDHR), invoking article 25(1), which guarantees the right to a standard of living adequate for the health and well-being of an individual and their family, inclusive of medical care. This provision, according to the court, serves as a universal affirmation of the indivisibility of human dignity and health, especially relevant in cases where the State's inertia risks undermining access to life-saving treatments for rare diseases.

Reinforcing this position, the Court turned to Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), a treaty ratified by India. It noted that article 12 recognises the right of everyone to the highest attainable standard of physical and mental health, and particularly highlighted article 12(2), which mandates States to take steps to prevent, treat, and control diseases, and to ensure access to essential medical services. The court interpreted this provision in the context of the global unavailability of gene and exon-skipping therapies for Duchenne Muscular Dystrophy (DMD), a rare disease afflicting the petitioners, stressing that unless such international obligations are translated into actionable State policy, they remain "paper covenants."

Further deepening its reliance on international norms, the court referred to article 24(1) of the Convention on the Rights of the Child (CRC), 1989. This provision affirms the right of the child to enjoy the highest attainable standard of health and mandates access to facilities for the treatment of illness and rehabilitation of health. It was observed that the State's inaction in provisioning timely therapy for children suffering from rare diseases starkly contravened its obligations under article 24(1) of the CRC. The petitioners, mostly minor children, were positioned as emblematic of an institutional neglect that offends both domestic constitutional values and internationally enshrined child rights.

Ultimately, the Court directed the Union of India and the concerned authorities to take concrete steps to implement the National Policy for Rare Diseases, including operationalising the digital crowdfunding platform and engaging with pharmaceutical companies for support. It mandated that treatment must not be hindered by financial constraints and emphasised the need for a systemic, long-term mechanism to address such medical exigencies.

A deeply tragic incident unfolded in *Phoolmativ. State of Rajasthan*¹⁷, this case when a pregnant woman was compelled to give birth to twins in the middle of a road after being denied medical care by the Community Health Centre (CHC), Khedli, due to the absence of a 'Mamta Card'. Despite suffering severe labour pain and being visibly in need of urgent care, the petitioner received no assistance from the medical staff and was forced to leave the facility. As she attempted to walk to a bus stop, she delivered her twins in the open market, without any medical aid. Both newborns later died – one on the way to a referral hospital and the other due to lack of treatment, having been denied care in the absence of immediate funds. The High Court of Rajasthan, while adjudicating on the petitioner's writ petition seeking compensation and enforcement of maternity welfare schemes, delivered a judgment that strongly condemned the violation of the petitioner's constitutional and human rights and relied heavily on international legal instruments to substantiate its findings.

The court invoked Article 21 of the Constitution of India, recognising the right to health as an inalienable component of the right to life, and emphasised that this right encompasses access to timely and adequate medical services. It further reinforced its reasoning by referring to Article 25 of the Universal Declaration of Human Rights (UDHR), which affirms everyone's right to an adequate standard of living, including medical care, and explicitly acknowledges that "*motherhood and childhood are entitled to special care and assistance.*" It was observed that this customary international law obligation had been grossly violated in the present case.

Expanding upon this foundation, the court examined India's obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR), which India has ratified. The court cited article 10 of the ICESCR, which mandates special protection for mothers before and after childbirth, and article 12, which recognises the right of everyone to enjoy the highest attainable standard of physical and mental health. The court highlighted the specific obligations under article 12(2)(a), including the provision for reducing stillbirth and infant mortality and ensuring healthy child development. Relying on General Comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights, the court reiterated that the right to health includes both freedoms and entitlements, encompassing timely access to healthcare and underlying determinants such as nutrition and sanitation.

The judgment also engaged with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), particularly articles 12 and 14. The court underscored that States must ensure access to healthcare services, including those related to pregnancy and childbirth, without discrimination. It further cited the obligation to provide free services and adequate nutrition to women during pregnancy and lactation. Specific reference was made to article 14's emphasis on rural women's access to adequate health care, recognising the

17 2024 SCC Online Raj 372.

petitioner's status as a brick kiln worker and the particular vulnerability of women in such socio-economic conditions.

In addition, the court examined India's obligations under the Convention on the Rights of the Child (CRC), particularly articles 24 and 27. Article 24 recognises the child's right to enjoy the highest attainable standard of health and obliges States to ensure access to necessary medical assistance and healthcare. Article 27 further recognises the right of every child to a standard of living adequate for their physical, mental, spiritual, moral, and social development, obligating States to provide material assistance and support programmes to enable this. These international obligations, the court held, reinforce the State's duty to safeguard the health and dignity of pregnant women and their newborn children, especially those from marginalised and economically vulnerable backgrounds. It was noted that under section 2(d) of the Protection of Human Rights Act, 1993, international covenants such as the ICCPR and ICESCR form part of enforceable human rights under Indian law.

In light of these constitutional and international legal principles, the court concluded that the petitioner's fundamental right to life under article 21 had been egregiously violated due to the gross negligence of the health officials and the failure of the State to effectively implement various welfare schemes, including the Janani Suraksha Yojana (JSY) and Janani Shishu Suraksha Karyakram (JSSK). The Court held both the Union of India and the State of Rajasthan jointly and severally liable and directed payment of compensation amounting to Rs. 4 lakhs to the petitioner. The Court also directed the constitution of a Joint High-Powered Committee to ensure proper implementation and reform of relevant schemes. It issued a series of structural directives aimed at increasing public awareness, improving record-keeping, monitoring the implementation of schemes, introducing mobile applications for maternal health, and training healthcare workers.

In a decision that merges constitutional guarantees with international obligations, the Rajasthan High Court in *Minakshi Chaudhary v. Rajasthan SRTC*¹⁸, in this case, addressed a challenge to the denial of 180 days of maternity leave to a woman employed as a conductor with the RSRTC. The petitioner, having been sanctioned only 90 days of leave under Regulation 74 of the RSRTC Employees Service Regulations, 1965, contended that she was entitled to the enhanced maternity benefit under the Maternity Benefit (Amendment) Act, 2017. The court was called upon to determine whether the existing RSRTC regulations, which limited maternity leave to 90 days, could justifiably override a statutory provision extended through central legislation and affirmed by prevailing constitutional norms.

The court opened its reasoning with an emphatic acknowledgement of the significance of motherhood and the foundational need to provide adequate support during maternity. Drawing a direct connection between the right to maternity leave and a woman's health and dignity, it reiterated that maternity leave is not a privilege,

18 2024 SCC OnLine Raj 2779.

but a right essential to both maternal and child welfare. The court not only relied on the domestic legal framework, particularly the Maternity Benefit Act, 1961, as amended in 2017, but also invoked international instruments to reinforce its position. Reference was made to article 11 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which obligates States to prohibit discrimination based on maternity and to introduce paid maternity leave without loss of employment or associated benefits. The court emphasised that maternity leave with pay or comparable social benefits must be guaranteed to safeguard women's right to work and motherhood concurrently.

In further support of its reasoning, the court referenced the Universal Declaration of Human Rights (UDHR), noting that it laid the groundwork for the global recognition of human rights, including special protections for motherhood. The court also considered the International Covenant on Economic, Social and Cultural Rights (ICESCR), observing that it reinforces the right to health and social protection for working mothers. It reaffirmed that these instruments are not merely aspirational but serve as guideposts that inform the interpretation and implementation of domestic law in line with India's international commitments. The court referred to the Supreme Court's judgment in *MCD v. Female Workers (Muster Roll)*, in which the apex court similarly relied on Article 11 of CEDAW and underscored the constitutional and international basis for extending maternity benefits beyond the constraints of contractual or employment classifications.¹⁹

Emphasising the directive principles under articles 39 and 42, and the fundamental rights under Article 21 of the Constitution, the court held that denying the petitioner the enhanced 180-day maternity leave. At the same time, the same benefit was available to similarly situated women employees in other departments, which was not only arbitrary but also violative of equality and dignity. It observed that the RSRTC's reliance on Regulation 74, which limited maternity leave to 90 days, was untenable in light of the subsequent amendment to section 5 of the Maternity Benefit Act and the broader legal landscape informed by India's constitutional and international obligations. The court concluded that Regulation 74 must yield to the statutory amendment and recommended that the regulation be suitably amended.

Allowing the writ petition, the court directed the RSRTC to grant the petitioner 180 days of maternity leave in accordance with the 2017 amendment and to disburse all consequential benefits. Where implementation of the remaining leave was no longer practicable due to a lapse of time, monetary compensation in the form of salary for the equivalent period was ordered. A general mandamus was also issued to the Central and state governments to ensure that similar maternity protections are extended to women in the unrecognised and private sectors. The judgment thus reaffirms that maternity entitlements flow not only from legislation but also from the broader framework of constitutional rights and international human rights law,

¹⁹ *MCD v. Female Workers (Muster Roll)*, (2000) 3 SCC 224.

which collectively uphold a woman's right to reproductive autonomy, dignity, and equal participation in the workforce.

*Dignity, Respect and Honour of Girls and Women, In re*²⁰

In a significant judicial intervention aimed at upholding the fundamental rights of women, the Rajasthan High Court initiated *suo motu* proceedings following a news report highlighting the alarming shortage of clean, accessible public toilet facilities for women. The court, while treating the report as a public interest litigation, linked the denial of such basic amenities to a broader violation of women's dignity, health, and the right to live with equality and decency. This case, while grounded in the local realities of inadequate sanitation infrastructure, was marked by a robust reliance on international legal principles and global human rights instruments to frame the State's obligation in affirmative terms.

The court underscored that the right to live with dignity is an integral part of Article 21 of the Constitution of India and cannot be interpreted narrowly. In support of this, it drew upon the Preamble of the Constitution of the World Health Organisation (WHO), which defines health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity." It also referenced the WHO's affirmation that the enjoyment of the highest attainable standard of health is a fundamental right of every human being without distinction. The Court further anchored its reasoning in Article 25 of the Universal Declaration of Human Rights (UDHR), 1948, which guarantees the right to an adequate standard of living for health and well-being. This, the court held, includes access to sanitation and hygiene facilities, especially for women, whose health needs are distinct and require focused attention. The judgment emphasised that toilets are not merely a matter of convenience but of health, dignity, and equality, especially given the increased medical risks women face due to poor sanitation.

The court further invoked Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, to reiterate that the right to health is not only a positive entitlement but also one that encompasses access to the underlying determinants of health, such as sanitation. Recognising India's ratification of these international human rights treaties, the court held that the State cannot ignore its obligation to ensure that women have access to clean, accessible, and safe public toilets in all urban and rural areas. The failure to provide such infrastructure, it noted, amounted to an abdication of statutory and constitutional responsibility and contravened both domestic and international human rights law. The court's observations were further supported by Article 47 of the Indian Constitution, which imposes a duty on the State to improve public health as a primary responsibility, and by several provisions of the Rajasthan Municipalities Act, 2009, which mandate urban local bodies to provide basic sanitation facilities.

Acknowledging the gravity of the issue, the court issued detailed directions to multiple governmental and municipal authorities to ensure the construction,

maintenance, and monitoring of public toilets exclusively for women. It emphasised that these facilities must be clean, hygienic, well-lit, and designed with privacy, safety, and accessibility for the elderly and disabled in mind. The court also ordered the formulation of comprehensive schemes involving women representatives, municipal officers, and NGOs, while highlighting the potential use of public-private partnerships and corporate social responsibility (CSR) models for sustainable upkeep. Through this judgment, the court not only addressed an infrastructural gap but positioned the right to sanitation as an extension of a woman's right to health and dignity, drawing its strength from both constitutional provisions and international human rights standards that India is bound to uphold.

xv. *Tanvi Thakur v. Himachal Pradesh Power Corpn. Ltd.*²¹

This case presented the High Court of Himachal Pradesh with an important question concerning the enforcement of maternity leave entitlements. The petitioner, a regular employee at the time of her maternity, applied for 180 days of leave in line with the state government's notifications dated December, 21 2017 and January 22, 2018, which had extended the benefit of 26 weeks of maternity leave. However, the respondent-corporation sanctioned only 135 days, stating that the revised policy had not yet been formally adopted by its Board of Directors. Challenging this denial and the resulting withholding of her salary for the remainder of the period, the petitioner approached the court to assert her legal and constitutional entitlement to full maternity leave as per the updated policy.

The court's analysis was firmly grounded in India's international commitments, beginning with the Universal Declaration of Human Rights (UDHR), 1948, where article 25(2) was explicitly invoked to state that "*Motherhood and childhood are entitled to special care and assistance.*" The court underscored that such international provisions foster a global consensus on human dignity and that India, as a signatory, is expected to uphold these guarantees. It further drew attention to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted by the United Nations on 18 December 1979, signed by India on 30 July 1980, and ratified on 19 July 1993. The court noted that despite India's reservations on specific provisions, its broader obligations under CEDAW – particularly concerning the protection of women against discrimination on grounds of maternity – carry significant weight in interpreting domestic protections. The judgment also referenced the ILO Maternity Protection Convention, 2000, recognising its objective of promoting motherhood, child care, and gender equality and reinforcing the universal entitlement to a just and humane framework for maternity benefits.

Relying on these international standards, the court interpreted the Maternity Benefit Act, 1961, as a legislative manifestation of these global and constitutional obligations. Referring to article 42 of the Constitution of India, which mandates the State to secure just and humane conditions of work and maternity relief, the court found that the denial of full maternity benefits solely due to the employer's

21 2024 SCC OnLine HP 2308.

delayed internal adoption of government policy was indefensible. It held that the petitioner, having applied for maternity leave during the period the State's revised policy was in effect, could not be deprived of its benefit simply because the Board of Directors of the Corporation had belatedly implemented the circular from November 28, 2018. The decision drew further strength from the Supreme Court's jurisprudence in *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*,²² where it was held that maternity benefits must be extended to all female employees, irrespective of their employment status. Such benefits are in harmony with Articles 39, 42, and 43 of the Constitution.

Ultimately, the court allowed the petition and held the petitioner entitled to 180 days of maternity leave and salary for the period from January 1, 2019 to February 22, 2019. It set aside the Corporation's decision to restrict the enhanced leave benefit only to employees still on maternity leave as of November 28, 2018, declaring such an artificial classification to be violative of the principles of equality and the overriding mandate of the Maternity Benefit Act.

This case arose from petitions filed by employees working at an institution for visually and hearing-impaired children in Himachal Pradesh *Roop Lal v. State of H.P.*,²³ which the Himachal Pradesh State Council operated for Child Welfare. Although the Council was formally designated as a non-governmental organisation, it was, in substance, a government-controlled and funded body. The petitioners, who were performing duties on par with those of regular government school teachers, had been denied equal pay, regularisation, and pension benefits. The State's initial position was that these employees were not entitled to such benefits as they were technically working for an NGO. However, the high court repeatedly rejected this claim, emphasising that the council functioned as an instrumentality of the State and was therefore subject to the same obligations. The court also highlighted previous decisions granting similar relief to employees of the same council or comparable bodies. Additionally, a specific grievance raised by Sinha in the case concerned the lack of policy-level redress for changes to the examination and curriculum systems for students with disabilities, which had gone unaddressed despite being critical to the inclusive education process.

The court referenced the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), to which India is a signatory and which became binding upon ratification in May 2008. Article 24 of the UNCRPD, which focuses on inclusive education for persons with disabilities, was prominently cited. It emphasises the development of human potential, dignity, and respect for persons with disabilities. More specifically, article 24(4) mandates that States take appropriate measures to employ qualified teachers, including those with disabilities, and to provide training incorporating disability awareness, sign language, Braille, and other relevant communication techniques. By invoking this provision, the court highlighted the State's international obligation to provide an inclusive and equitable

22 (2000) 3 SCC 224.

23 2024 SCC OnLine HP 2283.

educational environment supported by adequately trained staff. The concerns expressed about the lack of modification to examination systems and curricula for disabled students aligned with these objectives, reinforcing the petitioners' argument that the State had failed to fulfil both domestic and international duties.

The high court ultimately ruled in favour of the petitioners and issued comprehensive directions. It ordered that the petitioners be paid a consolidated salary and placed on pay scales equivalent to their government school counterparts, with all consequential benefits effective from the date of the petitioners' filing. It also directed that those eligible for regularisation be considered immediately, and that contractual service be counted for pay fixation and pension eligibility. Retired petitioners were granted retirement benefits, including gratuity, leave encashment, and pension. The court limited the disbursement of arrears to a period of three years before the filing of each petition, with an exception for petitioners who had made earlier representations or approached a judicial forum, in which case the relevant period would begin three years before that action. All orders previously issued by the authorities denying these benefits were quashed.

The judgment was strengthened by its reliance on the UNCRPD, which added an international dimension to the court's interpretation of justice and equality under the Indian Constitution. By doing so, the court not only applied well-established domestic principles, such as "equal pay for equal work" and the right to education, but also underscored India's international commitment to the rights of persons with disabilities. This dual grounding likely contributed to the court's firm rejection of the State's technical defences and its emphatic grant of relief, which recognised the importance of both the educators' rights and the broader rights of disabled students to inclusive and quality education.

In a significant ruling *Naina v. State of Punjab*,²⁴ emphasising compassion and reformatory justice, the High Court of Punjab and Haryana granted interim bail to a 24-year-old pregnant woman, Kirandeep Kaur, who was in her fifth month of pregnancy and faced charges under the Narcotic Drugs and Psychotropic Substances (NDPS) Act. The FIR alleged recovery of intoxicant tablets and heroin, and Kaur was nominated as an accused based on a co-accused's disclosure statement.

While the petitioner's counsel initially sought regular bail challenging the evidence, the primary focus of the application shifted to interim bail due to her pregnancy, overriding concerns about her criminal antecedents. The court's decision was deeply rooted in humanitarian considerations, recognising the unique vulnerabilities of pregnant women and the paramount welfare of the unborn child. It highlighted that automatically imprisoning newborns is an injustice in a progressive society and that giving birth in jail can stigmatise both mother and child for life.

The judgment extensively referenced international legal principles and conventions, notably article 12 of the Convention on the Elimination of All Forms

24 MANU/PH/2483/2024.

of Discrimination against Women (CEDAW), which mandates appropriate services for women during pregnancy and post-natal periods. It also drew on the recommendations of the Committee of Ministers to member States of the European Union regarding temporary release for delivery outside prison. It emphasised the state's obligation under article 51(c) of the Indian Constitution to foster respect for international law. The court underlined that imprisoning pregnant women should be a measure of last resort, aligning with global best practices and human rights standards for women in custody.

Ultimately, prioritising equity and justice, the court granted Kirandeep Kaur interim bail for the duration of her pregnancy and up to one year postpartum. The judgment underscored that “Cradles of motherhood and nurseries of civilisation are in meadows and not in cages,” reflecting a progressive judicial stance aimed at safeguarding the fundamental rights and dignity of both the mother and her innocent child. The interim bail was made subject to strict conditions, including reporting requirements, restrictions on mobile phone use, and an undertaking that she would not engage in further criminal activity, with provisions for a potential surrender and a fresh bail application on the merits after the interim period.

The case *Charuvila Philipose Sundaran Pillai v. P.N.Sivadasan*²⁵ concerned a key procedural issue in Indian civil litigation: how to serve summons on defendants residing outside India. Conflicting judgments by Division Benches of the High Court of Kerala had led to uncertainty regarding whether Indian courts could use direct postal service under Order V, Rule 25 of the Code of Civil Procedure (CPC), or if they were bound to serve summons exclusively through the Ministry of Law and Justice under the Hague Service Convention, to which India is a signatory.

The court examined the legal framework governing treaty implementation in India, particularly in light of India's dualist legal system. It noted that international treaties do not automatically become part of Indian law unless incorporated into Indian law by legislation. However, the executive may take necessary steps to give effect to treaties under article 73 of the Constitution, and Parliament retains exclusive legislative authority over such matters under Articles 246 and 253. The court referred to several Supreme Court decisions, including *Maganbhai Ishwarbhai Patel*²⁶, *Gramophone Company of India Ltd. v. Union of India*²⁷, and *Union of India v. Agricas LLP*²⁸, which reiterated that while treaties bind the Union, they do not override domestic law or affect the rights of citizens without express legislative incorporation.

A central question was the interpretation of Article 10 of the Hague-Visby Convention, which permits direct postal service unless the receiving State objects. India had entered a reservation to article 10. To determine the scope of this

25 MANU/KE/4528/2024.

26 *Maganbhai Ishwarbhai Patel v. Union of India* AIR 1969 SC 783.

27 *Gramophone Company of India Ltd. v. Union of India*, (1984) 2 SCC 506.

28 *Union of India v. Agricas LLP*, AIROnLine 2020 SC 696.

reservation, the court applied the Vienna Convention on the Law of Treaties (VCLT), 1969. Although India is not a party to the VCLT, Indian courts have often followed its provisions in treaty interpretation. The court concluded that India's reservation applies only to bar other countries from serving legal documents in India by postal means. It does not prohibit Indian courts from sending summons abroad via postal channels to countries that do not object to such service.

This interpretation was supported by examining international case law, including U.S. court judgments that addressed India's reservation to Article 10. The High Court of Kerala emphasised a narrow, practical reading of India's reservation, allowing Indian courts to retain the flexibility to use the postal service when the foreign state accepts it. The Full Bench held that the Hague-Service Convention is enforceable in India without specific enabling legislation, as its provisions are consistent with Rule 26A of the CPC and do not conflict with domestic law. The court acknowledged that the executive's notifications under Article 73, including the designation of the Ministry of Law and Justice as the Central Authority, were sufficient to operationalise the Convention in India.

Notably, the court affirmed that service under CPC Order V, Rule 25, including by post or email, remains valid and permissible for defendants residing abroad, provided that the receiving state permits such modes of service. However, it introduced a safeguard: if no confirmation of service is received within a reasonable time, or if the defendant does not appear, the parties should use the Hague Service Convention route to ensure proper service.

The judgment overruled the earlier decision in *Mollykutty v. Nicey Jacob*,²⁹ which had held that the Hague Convention was the only permissible mode for serving summons abroad. The court clarified that both the Convention and CPC Rule 25 can operate concurrently, depending on the circumstances and the law of the receiving state.

Finally, the court issued practical directions. It asked the High Court Registry to issue revised circulars and guidelines to reflect this judgment. It also recommended that the Central Government develop an online portal to facilitate the service of judicial documents under the Hague Convention, integrated with High Court Case Management Systems to improve transparency and efficiency. This judgment provides clarity on the procedure for serving a summons on foreign defendants. It harmonises India's obligations under international law with domestic procedural rules, ensuring litigants have both flexibility and legal certainty while upholding the principles of due process and international cooperation.

*Dejo Kappan v. Deccan Herald*³⁰

In a case that examines the contours of media freedom in the age of digital dissemination, the High Court of Kerala grappled with the extent to which the media's right under article 19(1)(a) of the Constitution can be exercised while

29 *Mollykutty v. Nicey Jacob* MANU/KE/4405/2018.

30 2024 SCC OnLine Ker 6494.

reporting on criminal investigations and ongoing judicial proceedings. The court, sitting as a Constitution Bench, took up a batch of writ petitions that raised concerns about potentially prejudicial reporting by media houses and whether judicially imposed guidelines were necessary to regulate such reporting. Though the court ultimately declined to impose abstract restrictions, it undertook a careful constitutional analysis. It reaffirmed the permissible limits of press freedom, especially in the context of the individual's right to dignity, fair trial, and privacy under Article 21 of the Constitution.

In articulating these limits, the court referred to India's obligations under international human rights instruments, notably the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Citing Article 10 of the UDHR, the Court emphasised that every individual is entitled to a fair and public hearing by an independent and impartial tribunal. This principle, according to the court, is not merely aspirational but has been substantially integrated into India's constitutional framework through articles 14, 19, and 21. Further drawing on article 11 of the UDHR and article 14(2) of the ICCPR, the court reiterated the presumption of innocence as a vital procedural guarantee, noting that it is a facet of the rights to life and personal liberty under Article 21. The court cautioned that when media trials erode this presumption by projecting an accused as guilty during the pendency of a trial, it jeopardises not only the individual's fair trial rights but also public confidence in the judiciary.

The judgment also took cognisance of the dual role of the media – as a watchdog and as a purveyor of responsible journalism – and observed that the right to report does not extend to publishing definitive conclusions on an individual's guilt or innocence before adjudication by a competent judicial forum. In this context, the court relied on the jurisprudence developed in *Sahara India Real Estate Corp. Ltd. v. SEBI*, which advocated case-specific reliefs, such as the postponement of reporting where necessary, to prevent prejudicial publicity. The High Court of Kerala emphasised that although media freedom is fundamental, it is not absolute and is inherently delimited by the rights of others under article 21 and by the principle of the separation of powers enshrined in the Constitution.

Significantly, the court invoked international law not only to underscore the State's obligations but also to enrich the constitutional interpretation of competing fundamental rights. By referencing international standards on privacy and fair trial, including jurisprudence from the UK and the United States, the court lent weight to the view that reputational harm and dignity violations arising from premature or speculative media reporting are incompatible with human rights norms and cannot be justified by invoking press freedom. The judgment concluded by declaring that the press cannot, under the guise of free expression, undermine an individual's right to a fair trial, dignity, or privacy. It clarified that media freedom under article 19(1)(a) is subject to constitutional boundaries and must be harmonised with other constitutional rights, drawing upon both domestic precedent and international human rights standards.

In doing so, the court refrained from prescribing blanket regulations and articulated a principled framework for assessing media conduct. It thereby left open the possibility of future judicial intervention in specific instances of rights infringement, provided the actions in question violate the constitutional and international principles discussed. This nuanced and carefully reasoned decision reinforces the importance of responsible journalism while reaffirming India's commitment to the international human rights framework.

In this case, the High Court of Patna *Shubh Lata Pandey v. Union of India*³¹ was presented with a nuanced question arising from the intersection of statutory maternity entitlements and evolving family structures. The petitioner, a Constable (GD) posted at Gaya Airport, sought maternity leave for the period of March 13, 2024 to 04 September 2024, which the Central Industrial Security Force denied because she had two surviving children and therefore was ineligible under Rule 43 of the Central Civil Services (Leave) Rules, 1972. Challenging this decision, the petitioner clarified that her two daughters were born before her joining service in 2007, and that she had neither availed maternity leave previously nor had any child during her tenure. She further submitted that she had since remarried and was seeking maternity leave for her first biological child from her present marriage, relying on the Supreme Court's judgment in *Deepika Singh v. Central Administrative Tribunal*,³² which had extended similar relief in analogous circumstances.

The court, after considering submissions from both sides, placed reliance on the purposive interpretation of the CCS (Leave) Rules, 1972, as articulated in *Deepika Singh*, in which the Supreme Court held that social justice must inform the approach of courts while adjudicating such claims. Referring to multiple other precedents, the court reiterated that the law must be responsive to changing social realities and that a rigid interpretation divorced from individuals' lived experiences may result in injustice. It was noted that the object of maternity leave is not merely to provide time off work but to support the continuance of women in the workforce and to respect their reproductive autonomy. The denial of such leave based solely on the existence of two children, born before the commencement of service and under different personal circumstances, would be contrary to the beneficial intent behind the leave provisions.

Crucially, the court supported its reasoning by invoking India's international commitments to gender equality and maternity protection. It referred to article 25(2) of the Universal Declaration of Human Rights (UDHR), 1948, which recognises that "motherhood and childhood are entitled to special care and assistance." Further, it relied on article 11(2)(b) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which obligates State Parties "to introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances." These provisions

31 2024 SCC OnLine Pat 9060.

32 *Deepika Singh v. Central Administrative Tribunal*, (2023) 13 SCC 681.

were cited to underline that maternity rights are integral to a woman's dignity, autonomy, and equal participation in employment. The Court highlighted that under article 15(3) of the Indian Constitution, the State is empowered to make special provisions for women and children. Article 21 includes the right to privacy, dignity, and bodily integrity, all of which are relevant to the petitioner's claim.

The court concluded that the denial of maternity leave to the petitioner, based solely on Rule 43 without considering her unique factual background or adopting a purposive, socially contextual reading of the rule, could not be sustained. It directed the concerned authority to revisit the impugned order dated March 22, 2024 and pass an appropriate decision in light of the Supreme Court's ruling in *Deepika Singh* and the international obligations referred therein. In doing so, the Court reaffirmed that international human rights standards, including those under the UDHR and CEDAW, form a critical part of the interpretative framework for assessing maternity entitlements, particularly when read alongside constitutional guarantees that protect the reproductive rights and employment security of women.

This case *Tapaswini Rout v. Union of India*,³³ arose from two writ petitions challenging the Government of India's decision to integrate the existing "Childline" or "Child Helpline" services with the new "Mission Vatsalya" scheme. The integration brought significant changes to the structure and operation of child welfare services and raised serious concerns regarding the livelihoods of long-serving staff working under the earlier model.

The petitioners were experienced personnel who had worked for many years under the Childline service, India's 24-hour emergency helpline (1098) for children in distress, administered by NGOs such as Basundhara and coordinated by the Childline India Foundation (CIF). The service had been in operation since 1998 and was entirely funded by the Ministry of Women and Child Development (MWCD). Many petitioners had worked in the system for over 15–20 years.

In 2022–2023, the MWCD decided to integrate the 1098 helpline with the Emergency Response Support System (ERSS-112) under "Mission Vatsalya." This new model would make the police the first point of contact instead of social workers and eliminate CIF's role, transferring operational control to state governments, often via outsourced private agencies. As a result, existing Childline staff faced termination without any provision for absorption into the new system.

The petitioners contended that the integration was arbitrary and impractical. They argued that assigning the police as first responders in child protection matters would be detrimental, as police officials often lack the specialised training and sensitivity required in such cases. They also claimed the integration violated the spirit of the Juvenile Justice (Care and Protection of Children) Act, 2015, which emphasises the role of trained child welfare professionals. The petitioners sought to quash the integration orders and requested directions for their continued employment under the new scheme.

33 SCC OnLine Ori 992.

The government defended the decision as a policy matter, asserting that it provided full financial support under Mission Vatsalya and that the relevant Standard Operating Procedures (SOPs) did not mandate retaining existing NGO staff. It emphasised the restructuring as an effort to create a unified, centrally managed response mechanism for emergencies.

The court acknowledged that India is a signatory to key international treaties, including the United Nations Convention on the Rights of the Child and the Hague Convention on Intercountry Adoption. Although no specific treaty provision was directly applied, the judgment emphasised that these treaties form the foundation for India's child protection framework. The historical alignment of Childline services with international obligations underscored the importance of maintaining effective and sensitive child welfare mechanisms.

While upholding the government's authority to introduce new policy schemes, the court underscored the need to protect the rights and livelihoods of individuals who had served within state-funded structures for decades. It noted that since Childline staff were working in posts entirely funded and controlled by the central government, they were effectively functioning as government employees, despite being hired through NGOs.

The court found that the SOPs for the new scheme, as well as practices followed by states like West Bengal and Tamil Nadu, included a "preference clause" that favoured the inclusion of existing Childline workers in the new setup. This indicated that experienced staff were meant to be considered for continued roles under Mission Vatsalya. On this basis, the court declined to annul the integration itself but directed that the office orders terminating the petitioners' services be modified to accommodate them in their current positions. However, to avoid creating a binding precedent affecting government policy across the board, the court clearly stated that its order applied only to the present petitioners.

In conclusion, while the court did not strike down the government's integration plan, it emphasised the need for continuity, experience, and child-sensitive practices in welfare services. The decision reflects a balance between respecting state policy and ensuring that long-serving personnel are not unfairly displaced, in line with the broader objectives of international child rights law.

This case involved a writ petition *Supriya Jena v. State of Odisha*,³⁴ filed by a female government employee in Odisha who became a mother through gestational surrogacy. She sought 180 days of maternity leave, followed by earned leave to care for her newborn. While her immediate office initially granted the leave, the Finance Department and the General Administration and Public Grievance (G.A. & P.G.) The department later refused to approve the entire period. The denial was based on the absence of any explicit rule granting maternity leave to female government servants who become mothers through surrogacy. The petitioner challenged this decision, arguing that motherhood, regardless of the biological process, should entitle a woman to maternity leave.

34 2024 SCC OnLine Ori 1690.

The petitioner contended that denying her maternity leave on the grounds of surrogacy amounted to discrimination. She argued that it violated her fundamental rights under articles 14 (equality before the law), 16 (equality of opportunity in public employment), and 21 (right to life and dignity) of the Constitution. The case raised the broader legal question of whether “maternity” under service rules and welfare legislation should be interpreted to include commissioning mothers who have children through surrogacy.

In its analysis, the Court referred to international law, particularly the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), to which India is a signatory. CEDAW calls for equal treatment and non-discrimination in matters related to employment and maternity. The Court used this international instrument to reinforce the need for a broader, inclusive interpretation of maternity benefits in Indian service law, aligning domestic policy with global commitments to gender equality and women’s rights.

The court allowed the writ petition. It quashed the denial letters issued by the Finance and G.A. and P.G. Departments and directed the State to sanction 180 days of maternity leave to the petitioner within three months; and amend the relevant service rules to include commissioning mothers, *i.e.*, women who have children through surrogacy, so they receive the same maternity benefits as mothers through natural birth or adoption.

The judgment recognised that the term “maternity” must be understood not only in biological terms but also in terms of care, bonding, and motherhood. It emphasised that maternity leave is intended to protect the welfare of the child and the mother’s well-being, regardless of the method of childbirth. Denial of such leave to commissioning mothers was held to be discriminatory, contrary to the principles of social justice, and inconsistent with beneficial legislation such as the Maternity Benefit Act, 1961. This ruling marked a step forward in recognising the evolving nature of family and parenthood in Indian law and in ensuring that women are not denied rights merely because of the method by which they become mothers.

This case involves a petitioner *Indranil Bhattacharya v. Union of India*,³⁵ engaged in the captive breeding of exotic bird species, who applied for registration under section 49N of the Wildlife (Protection) Amendment Act, 2022, on July 18, 2023. The authorities rejected the application because it was filed beyond the statutory 90-day limit, which they claimed began on April 1, 2023, when the 2022 Amendment Act came into effect. The petitioner challenged this refusal, arguing that the 90 days should instead be counted from April 28, 2023, the date on which the Breeders of Species Licence Rules, 2023, were notified. According to the petitioner, it was not possible to apply without the prescribed form, manner, and fee being specified under section 49N(2), which could only occur after the rules came into force. Further, the petitioner submitted that no statutory appeal under section 49-O was available in this instance because their application had been

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refused at the threshold without being registered or scrutinised, and without allowing a hearing.

The respondents, including the Union of India and the Chief Wildlife Warden (CWW), argued that the 90-day limitation period began on April 1, 2023, upon the commencement of the Act. They emphasised that the administrative circulars indicated June 29, 2023, as the last date for submission. They also contended that an appeal remedy under section 49-O(4) was available against any refusal of a license. Additionally, the respondents invoked international law, specifically the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), citing that the birds in question were listed under Schedule IV, Appendix I of the 2022 Act. They submitted that granting registration in such cases must be exercised with great caution to prevent the laundering of smuggled wildlife under the guise of captive breeding, thereby underlining India's obligations under CITES.

The court ruled in favour of the petitioner and set aside the refusal to register the application. On the question of maintainability, it held that the writ petition was valid because the petitioner's application had been rejected at the outset without scrutiny, registration, or opportunity of hearing, contrary to section 49-O(2) and Rule 5 of the 2023 Rules. Thus, the stage for preferring an appeal had not arisen. Regarding the limitation period, the court adopted a purposive interpretation of section 49N. It reasoned that section 49N(1), which imposes a 90-day limitation from the commencement of the Act, could not be read in isolation from section 49N(2), which requires the Central Government to prescribe the application process by rules. Since the requisite 2023 Rules were notified only on April 28, 2023, the court held that the limitation period must run from that date, not April 1. This interpretation ensured procedural fairness by recognising that an applicant cannot be expected to comply with undefined obligations.

While the CWW's reliance on CITES emphasised the vital goal of species protection and regulatory rigour, the Court clarified that the objectives of CITES and the 2022 Amendment Act, though significant, did not override the necessity of procedural fairness in implementing these laws. The court maintained that adherence to international conservation commitments must be harmonised with clarity and accessibility of domestic legal procedures.

The court directed the Principal Chief Wildlife Warden to accept and scrutinise the petitioner's application in accordance with Rule 5 of the 2023 Rules and to decide on the issuance of the license within four weeks. If the application is to be rejected, the court mandated that the petitioner be given an opportunity for a hearing and that reasons in writing support the decision. Moreover, the court ordered that any criminal or other proceedings initiated against the petitioner due to the earlier rejection of their application be kept in abeyance until the authorities issue a final, reasoned decision.

V CONCLUSION

The examination of significant judicial pronouncements from 2024 reveals the steadily expanding influence of international law within the Indian legal

landscape. By incorporating international conventions into their reasoning, Indian courts have demonstrated a firm resolve to align domestic legal practices with international legal standards, especially when such alignment reinforces constitutional principles and furthers the cause of social justice. These decisions serve as instructive examples of how international norms, though not self-executing, can be effectively domesticated through judicial interpretation and the framing of statutory provisions.

Crucially, the judiciary has maintained the doctrinal balance between Parliament's supremacy in incorporating treaty obligations and the court's power to interpret laws in accordance with India's international commitments. The rulings also affirm that, while international law may not automatically override domestic statutes, it offers persuasive, and often compelling, guidance in resolving statutory ambiguities and advancing human rights protections.

The cases covered in this survey underscore the courts' adaptive engagement with international law, not merely as a supplementary source but as a framework for achieving greater coherence, equity, and accountability in the justice delivery system. As India continues to confront new legal challenges in a globally interconnected environment, the judiciary's role in facilitating the internalisation of international legal norms will be pivotal. This ongoing dialogue between international obligations and constitutional imperatives reflects a judiciary responsive to global developments and committed to the transformative aspirations of Indian law.

