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FROM INTERNATIONAL COMMITMENTS TO DOMESTIC LAW: THE FEDERAL IMPLICATIONS OF ARTICLE 253

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ABSTRACT

Article 253 of the Indian Constitution gives Parliament the power to make laws that all of India must follow to carry out international treaties, conventions, and agreements, even on issues that are constitutionally reserved for the states¹. This provision shows that India is serious about its international duties and needs to speak with one voice on the world stage². However, it also brings up important constitutional questions about the balance of power in India's quasi-federal system³. The wide range of Article 253 lets the Union take over State List subjects, which goes against the idea of federal autonomy and raises questions about whether the current checks and balances are strong enough⁴.

This article examines the constitutional origins, scope, and judicial interpretation of Article 253, emphasising the courts' consistent acknowledgement of its extensive reach. It looks at how it works in real life by looking at important cases like environmental laws, the Lokpal framework, and how public health was handled during the pandemic. The answer should make sure that the failure doesn't get in the way of the main goal of development. The analysis demonstrates that India lacks robust mechanisms for state involvement in treaty implementation, as evidenced by comparative perspectives from other federal systems such as the United States and Australia. The article stresses how courts have always upheld the broad scope of Article 253. It examines the practical implementation of this provision through significant examples, including environmental legislation, the Lokpal framework, and public health management during the pandemic. The analysis shows that India doesn't have strong

¹ INDIA CONST. art. 253.

² Vijay Kumar, Treaty-Making Power Under the Indian Constitution, 24 J. INDIAN L. INST. 231 (1982).

³ Granville Austin, *Working a Democratic Constitution: The Indian Experience* 186 (1999).

⁴ H.M. Seervai, *Constitutional Law of India* 2991 (4th ed. 1996).

systems for including states in treaty implementation when compared to systems in the US and Australia.

According to the article, while having a central government under Article 253 aids India in effectively fulfilling its obligations abroad, it can also result in the centre being granted excessive authority. This has the potential to erode democratic accountability and collaboration among governmental levels. According to the article, this can be fixed by requiring the parliament to approve major international agreements, ensuring state governments are consulted when their interests are at stake, and having the courts ensure that these actions are constitutional. It thinks that taking these actions would assist India in striking a balance between its domestic federal structure and its obligations abroad.

Keywords: *International Commitments, Indian Federalism, Article 253, Treaty Implementation, Cooperative Federalism.*

INTRODUCTION

For federations like India, this interface between domestic constitutional provisions and international law is challenging. According to Article 253 of the Indian Constitution, Parliament has the authority to enact laws that will apply to the entire country and give effect to treaties, conventions, and international agreements, "*notwithstanding anything in the foregoing provisions of this Chapter*¹." The issues of striking a balance between India's international commitments and the autonomy of its states under its quasi-federal system are of utmost importance to such an omnibus power⁵. The constitutional implications of such a central power are undoubtedly a topic for investigation, even though India's duty to have a single voice in international affairs is undeniable.

This article discusses the scope of Article 253, its historical development, its interpretations by the judiciary, and its effects on India's constitutional federal system. It also takes into account recent disputes, such as the implementation of treaties in the context of COVID-19, comparative practices, and suggested changes to bring treaty obligations and cooperative federalism closer together.

THE SCOPE OF ARTICLE 253

Even on subjects that are typically handled by state governments, such as those mentioned in the Seventh Schedule, Parliament is empowered by Article 253 of the Indian Constitution to

⁵ Constituent Assembly Debates, Vol. IX (1949).

enact laws that adhere to international treaties, conventions, and agreements. Typically, the Union and the states share authority, with the states controlling sectors like agriculture, public health, and law enforcement. But the article's opening clause states, "*notwithstanding anything in the foregoing provisions of this Chapter,*" giving Parliament the authority to disregard this division to fulfill its obligations under international law¹. This demonstrates that a cohesive national approach, rather than dispersed efforts by various states, is required for treaty-making and foreign policy.

Article 253 following postponed state talks. Despite having an impact on state public services, *the Lokpal and Lokayuktas Act of 2013* was also passed under this article, based on India's obligations under the *UN Convention Against Corruption*. The Union government recently used international agreements to regulate the distribution and purchase of vaccines and medical equipment, which are typically under the state list, during the COVID-19 pandemic⁶.

Therefore, Article 253 favours national unity over state independence by converting India's international commitments into domestic laws. While this aids in meeting international standards, it also raises questions regarding the idea of cooperation in a federal system and the waning of state authority.

FEDERAL TENSIONS UNDERLYING TREATY IMPLEMENTATION

Implementing treaties frequently causes tensions at the federal level, particularly because of Article 253 of the Constitution. Conflicts within the nation's federal system may arise as a result of this article's ability to give the federal government the authority to enact laws that would otherwise be handled by the states. The Constitution's established balance of power is upset when the federal government has the authority to enact laws directly on subjects that are typically the province of state governments. When the federal government uses international agreements to control issues that belong to the states, state governments frequently claim that this eliminates their independence.

The *Lokpal and Lokayuktas Act*, which was passed in 2013, is a prime example.

The central government justified this law by citing Article 253, which states that *it must adhere to the United Nations Convention Against Corruption*. However, public services in the states, which are typically the responsibility of state governments, were directly governed by the law. *Many states disagreed, claiming that it demonstrated how international commitments can be*

⁶ Lavanya Rajamani, International Law and the Constitutional Schema, in *Oxford Handbook of the Indian Constitution* 265 (Sujit Choudhry et al. eds., 2016).

*used to increase central power and diminish their authority over anti-corruption organisations*⁷.

During the COVID-19 pandemic, there was another recent instance.

In order to obtain vaccines and medical supplies, the central government struck agreements with foreign businesses and then assumed complete control of their distribution. State governments contended that excluding public health from the process violated the concept of shared governance and that public health is a state responsibility. Although the central government's actions were permitted by law under Article 253, they were viewed as lacking cooperation, which is in opposition to federalism's values of inclusive decision-making and teamwork⁸. Therefore, even though Article 253 aids India in fulfilling its obligations abroad, it frequently causes conflict within the federal system.

JUDICIAL INTERPRETATIONS

Generally speaking, the courts have construed Article 253 in a way that grants Parliament significant authority, enabling the Union to take the initiative in implementing international agreements.

Maganbhai Ishwarbhai Patel v. Union of India (1969) is a significant case. The Supreme Court ruled in this case that *Parliament can enact laws under Article 253 to implement international treaties, even if those laws deal with matters that are typically the responsibility of state governments*. Crucially, the Court clarified that *the Constitution does not necessitate state governments' consent before such laws are passed, demonstrating the Union's independence*⁹.

Subsequent court rulings have upheld this expansive perspective, holding Parliament and the Union government accountable for treaty implementation. Although the courts acknowledge that Parliament's authority under Article 253 is limited, they have primarily done so by constitutional principles such as the basic structure doctrine. *This implies that the courts cannot stop laws passed to implement treaties as long as they do not alter fundamental aspects of the Constitution, such as federalism, democracy, or the role of the courts*¹⁰.

⁷ Aparna Chandra, *India and International Law: Formal Dualism, Functional Monism*, 57 Indian J. Int'l L. 25 (2017).

⁸ National Commission to Review the Working of the Constitution, *Report of the National Commission to Review the Working of the Constitution*, vol. I, at 165 (2002).

⁹ *Maganbhai Ishwarbhai Patel v. Union of India*, AIR 1969 SC 783.

¹⁰ *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461.

This legal strategy illustrates how courts often uphold India's international agreements over the independence of state governments. This guarantees the nation's unity in international affairs, but it also establishes a system in which states have little say in decisions that could significantly impact their own authority.

COMPARATIVE PERSPECTIVES

It is clear from examining the comparative viewpoints that many federations use subnational units to implement treaties. *In the United States, state laws cannot conflict with federal treaty law, and although the federal government negotiates treaties, implementation frequently needs congressional approval*¹¹. This aids in striking a balance between local authority and international agreements. Treaty-making in the United States is the responsibility of the federal government, but its implementation requires congressional approval. Through this procedure, Congress can ensure that the power to make treaties is exercised democratically. *Additionally, legitimate federal treaties supersede state laws under the Supremacy Clause*¹², which prevents states from breaching national commitments while maintaining the need for checks and balances within the federal system. *In Australia, constitutional practice recommends consultation with states through the Council of Australian Governments, despite the Commonwealth Parliament's broad authority*¹³.

TOWARDS COOPERATIVE FEDERALISM

*As suggested by the National Commission to Review the Working of the Constitution (2002), the Union government should consult with state governments prior to entering into treaties that involve matters within the State List*¹⁴. A consultative process of this kind would strengthen accountability, democratic legitimacy, and long-term implementation rather than weaken India's international commitments. When drafting treaties, cooperative federalism guarantees that both governmental levels share accountability for bringing domestic law into compliance with international standards.

To institutionalise this balance, a number of reforms could be taken into consideration. Possible reforms include:

¹¹ U.S. CONST. art. II, § 2, cl. 2.

¹² U.S. CONST. art. VI, cl. 2.

¹³ Cheryl Saunders, The Constitutional Framework for Intergovernmental Relations in Australia, in *Distribution of Powers and Responsibilities in Federal Countries* 133 (A. Watts ed., 2005).

¹⁴ National Commission to Review the Working of the Constitution, *Report of the National Commission to Review the Working of the Constitution*, vol. I, at 165 (2002).

1. **Parliamentary Ratification:** Treaties with major political, economic, or social ramifications might need parliamentary approval under an amendment to Article 253. Parliamentary ratification would offer democratic oversight and improve India's negotiating position abroad, in contrast to the current practice where executive discretion is predominant. This strategy would be similar to what is done in many federal democracies, where legislative approval is required for treaty obligations.
2. **Mandatory Consultation with States:** The Constitution may require a structured discussion with affected states prior to finalisation in cases where treaties involve issues listed in List II. States would not have a veto power under such a system, but it would guarantee that their opinions are taken into account when creating domestic laws. A permanent intergovernmental council on treaty obligations could be one way to institutionalise consultation and promote consistency and trust.
3. **Judicial Safeguards:** Legislation implementing treaties that disproportionately upsets the federal balance or compromises the basic structure doctrine could be subject to the Supreme Court's expanded interpretive authority. By acting as a constitutional check, judicial review would stop Article 253 from being used as a means of consolidating power under the pretence of international obligations.

When combined, these reforms would accomplish two goals. They would strengthen India's reputation as a state that can uphold its commitments through strong, democratic procedures on a global scale. At home, they would uphold the spirit of federalism by making sure states participate in treaty implementation as active participants rather than passive observers. Thus, incorporating cooperative federalism into treaty-making would protect constitutional values while also improving India's capacity to handle the challenges of international governance.

CONCLUSION

The delicate balance that India must strike between upholding the federal structure established by the Constitution and projecting itself as a single actor in international affairs is embodied in Article 253. Although the Article gives the Union government the authority to enact laws to carry out its obligations under international law, if it is used unchecked, it could marginalise the role of the states and upset the framers' intended balance of power. According to the constitutional design, the pursuit of international commitments must serve as a tool for cooperative governance rather than as a cover for centralisation.

Creating institutional and procedural safeguards that balance executive power with democratic involvement and federal accountability is crucial. Significant treaty ratification by parliament would bolster democratic legitimacy by guaranteeing that representatives of the people support international commitments rather than leaving them up to the executive branch alone. In a similar vein, state consultation would turn states from passive recipients into active partners in implementation, particularly when treaties touch on topics on the State List. In addition to improving the calibre of laws, this kind of involvement makes it easier for India's various jurisdictions to enforce the law. Last but not least, judicial supervision under the basic structure doctrine can act as a constitutional check on Article 253, preventing federalism from being undermined under the pretence of upholding international obligations.

India's ability to act internationally is strengthened rather than diminished by the shift to cooperative federalism. A federal system that combines judicial review, state participation, and parliamentary discussion is seen as more stable and credible overseas. Commitments supported by democratic consensus are more likely to be trusted by partners in global governance than those that the executive imposes unilaterally. Such reforms would transform Article 253 from a possible fault line into a framework for unity at home by reducing tensions between the states and the Centre.

Therefore, a well-balanced model that institutionalises cooperation rather than absolute central authority is what Article 253's future holds. India can make sure that its interaction with international law upholds rather than undermines the federal values at the heart of its constitutional identity by reorienting its operations to embrace accountability and participation.