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THE FRICTION BETWEEN INTERNATIONAL AND DOMESTIC LAW IN INDIA: A CRITICAL STUDY

"Establishing The Supremacy Of Law Within The National Sovereign"

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ABSTRACT

The supremacy of law is almost universally supported at the national and international level but practically it is a subject of the respective jurisdiction and sovereignty. The extraordinary support for the supremacy of law in theory, however, is possible only because of widely divergent views of what it means in practice. Disparate national opinions, political jargons and variety of facts and figures existing in the Indian territory has posed few problems while operating both the laws in parallel, but efforts to promote the supremacy of law through international organizations have necessitated a reassessment of this pluralism. This paper proposes a core meaning to the supremacy of law and argues that its applicability to the international level will depend on that ideal being seen as a means rather than an end, as serving a function rather than defining a status. Such a vision of the supremacy of law within the jurisdiction of India more accurately reflects the development of the supremacy of law in national jurisdiction and appropriately highlights the judicial work that has been done in the wage of employment of international law in India and also the nuances where Indian territory has even ignored the existence of any international law with respect to certain issues. This paper gives a clear image of approach of judiciary towards international law even when the domestic law was silent to a question of law and international law had an answer to it. Also the instances are highlighted wherein India has surrendered herself before the International bodies for the adjudication. This paper aims to establish the meaning of the supremacy of law in Indian context as constitution of India is the law of land but what if conflict arises between the domestic law and the international law, what prevails over the other?

1: INTRODUCTION

The rule of law is a term that is often used but difficult to define. A frequently heard saying is that the rule of law means the government of law, not men. But what does "a government of law, not men", mean? Don't men and women in their roles as legislators make laws? Don't men and women enforce the law as police officers or interpret the law as judges? And don't all of us choose to follow, or not to follow, the law as we go about our daily lives? How does the rule of law exist independently from the people who make it, interpret it, and live it?[1] The easiest answer to these questions is that the rule of law cannot ever be entirely separate from the people who make up our government and our society. The rule of law is more of an ideal that we strive to achieve, but sometimes fail to live up to. The idea of the rule of law has been around for a long time. The societies have developed institutions and procedures to try to make the rule of law a reality. These institutions and procedures have contributed to the definition of what makes up the rule of law and what is necessary to achieve it.

1.1 RULE OF LAW- MEANING

***"No freemen shall be taken or imprisoned or disseized or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by the lawful judgment of his peers or by the law of the land."*—Article 39, Magna Carta (1215)**

In 1215, King John of England signed the Magna Carta (or Great Charter). A group of barons, powerful noblemen who supported the king in exchange for estates of land, demanded that the king sign the charter to recognize their rights. Article 39 of the Magna Carta was written to ensure that the life, liberty, or property of free subjects of the king could not be arbitrarily taken away. Instead, the lawful judgment of the subject's peers or the law of the land had to be followed. It recognizes that a person's fate should not be in the hands of a single individual—here, the king. It demands that a judgment against a person be made in accordance with the law. Magna Carta planted the seeds for the concept of due process as it developed first in England, and then in the United States. Due process means that everyone is entitled to a fair and impartial hearing to determine their legal rights[2].

[1] Cass, Ronald A. 2001. *The Rule of Law in America.* Baltimore: Johns Hopkins Univ. Press.
[2] Komesar, Neil K. 2001. Law's Limits: The Rule of Law and the Supply and Demand of Rights. New York: Cambridge Univ. Press.

The rule of law is the very basis or foundation of democracy. Democracy cannot function unless the law is supreme. The rule of law connotes equal protection of law to all persons. Law must be completely indifferent to the caste, community, religion, race or color of the person with whom it is dealing[3]. There must also be a provision for a fair trial of a person accused of any offense and a prohibition against the deprivation of a person's freedom without due process of law.

The rule of law also requires that people can expect predictable results from the legal system; this is what Judge Wood implies when she says that "the laws must not be "arbitrary." Predictable results mean that people who act in the same way can expect the law to treat them in the same way. If similar actions do not produce similar legal outcomes, people cannot use the law to guide their actions, and a "rule of law" does not exist.

1.2 COMPONENTS OF RULE OF LAW

When we [Americans] talk about the rule of law, we assume that we're talking about a law that promotes freedom, that promotes justice, that promotes equality.—U.S. Supreme Court Justice Anthony Kennedy, Interview with ABA President William Neukom (2007)

The primary purpose of the rule of law is the protection of certain basic rights. The components of rule of law are as follows:

- Supremacy of law
- Equality before law
- Pre-dominance of the legal spirit

Practically, these components of the rule of law are enshrined under the following principles that are practiced in almost every governing system.The relevance of the Rule of Law is demonstrated by application of the following principles in practice.

A. The separation of powers between the legislature, the executive and the judiciary.

B. The law is made by representatives of the people in an open and transparent way.

[3] Scalia, Antonin. 1989. "The Rule of Law as a Law of Rules." *University of Chicago Law Review* 56.

C. The law and its administration is subject to open and free criticism by the people, who may assemble without fear.

D. The law is applied equally and fairly, so that no one is above the law.

E. The law is capable of being known to everyone, so that everyone can comply.

F. No one is subject to any action by any government agency other than in accordance with the law and the model litigant rules, no one is subject to any torture.

G. The judicial system is independent, impartial, open and transparent and provides a fair and prompt trial.

H. All people are presumed to be innocent until proven otherwise and are entitled to remain silent and are not required to incriminate themselves.

I. No one can be prosecuted, civilly or criminally, for any offence not known to the law when committed.

J. No one is subject adversely to a retrospective change of the law.

The seeds of rule of law were not sown overnight. It wasn't a work of single system either. It processed gradually in the different systems existing and collectively, the juice of which came to be known as rule of law.

1.3 RULE OF LAW IN INDIA

This paper will be concentrating on one of the aspects of rule of law i.e. supremacy of law. The concern of the paper is to establish the supremacy of law on the international front with respect to India. Within the territories of India, Constitution is the supreme law of land and all the laws that are made by the Parliament are subject to this sacred document. Therefore the Constitution is the supreme law of land in India.

But what shall be the scenario when the domestic law of India collides with the International Law? This paper aims to answer the following questions:

1. To what extent India herself has surrendered to the International Organisation in cases of dispute with the other countries?

2. To what extent the judiciary of India has accepted the International Laws and policies with respect to the matters within their jurisdiction?

The answers to these questions will lead us to establish the supremacy of law within the territory of India. For the matters within the Indian jurisdiction, the Constitution of India has always prevailed but the outlook of judiciary and India as a sovereign towards the International laws will be assessed henceforth.

Rule of Law as a principle is though not specifically enshrined under the Indian Constitution yet the essence of principles of Rule of law are incorporated under various provisions of the Constitution It provides that the constitution shall be the supreme law of the land and the legislative and the executive derive their authority from the constitution.

Various Article of the Indian constitution clearly represent application of rule of law. Such as, Article 13 (1) provides that any law that is inconsistent with the Constitution is to be declared invalid; Article 21 provides a further check against arbitrary executive action by stating that no person shall be deprived of his life or liberty except in accordance with the procedure established by law. Article 14 ensures equality and that no person shall be discriminated on the basis of sex, religion, race or place of birth. Further the Constitution also provides for separation of power between the three wings of the government and the executive and ensures that the legislature have no influence on the judiciary thereby ensuring Independence of Judiciary. By these methods, the constitution fulfils all the requirements of Dicey's theory to be recognized as a country following the Rule of Law. Rule of Law is also reflected under the Preamble where the ideals of justice, liberty and equality are enshrined

The Supreme Court of Indian through its various judgments has further emphasized on Rule of Law being an integral part of the Indian Constitution.

For instance , in ***Indira Gandhi v Raj Narain*** [4]It was held that Rule of law forms part of the basic structure of the constitution and therefore, it cannot be abrogated or destroyed even by the Parliament .

[4] 1975 AIR 1590

In ***A.D.M Jabalpur v Shivakant Shukla***[5], the question before the apex court was, whether there was any rule of law in India apart from Article 21 of the Indian Constitution. The court by majority held that there is no rule of law other than the constitutional rule of law.

1.4 THE PLACE OF LAW IN INTERNATIONAL RELATIONS

- **MUNICIPAL LAW Vs. INTERNATIONAL LAW**

We in India are supposed to follow Dualist approach. India's approach to international law can be looked at from two perspectives – Indian law vis-a-vis treaties and Indian law vis-a-vis international customs. India follows the dualist theory of international law. Therefore, international law principles and norms cannot be invoked in municipal courts without being expressly incorporated into the domestic law. The courts have held that in the light of the provisions of Article 51 treaties to which India is an assenting party should be implemented in good faith, but at the same time, the executive cannot be directed to follow the treaty in absence of a domestic law. However, paradoxically treaties are considered self-executing, that is, they apply in the municipal sphere automatically, except where it requires an amendment to the Constitution or an existing law, or where a new law is required to be enacted[6]. Therefore, the Courts can take aid of the treaty principles not inconsistent with the provisions of laws of India. Customary international law, on the other hand, is not considered to become part of municipal law automatically. Therefore, where there is a conflict between municipal law and customary international law, the former will prevai[7]l. Nevertheless, the courts have played an active role in the implementation of India's international obligations and have taken cognizance of both treaty as well as customary principles of international law in cases involving violations of human rights or questions of environmental law. Although Article 51 mandates respect for international law, it is not an enforceable Article. Article 253 confers exclusive power on the Parliament with respect to international affairs. But the Constitution contains no express provision settling the relation and status of international law in Indian courts. This "silence" has given the flexibility to courts to implement international law in a progressive and measured manner.

2 . MUNICIPAL LAW Vs INTERNATIONAL LAW

[5] 1976 AIR 1207
[6] Brownlie; *Principles of Public International Law* (7th edn; Oxford University Press, Oxford, 2008) p.32
[7] Oppenheim, *International Law*, Vol 1 (8th edn., 1955), p. 37

Any Jurisdiction is governed by two kinds of laws ie. Municipal Law that deals with intra state or domestic affairs and International law , that deals with inter state affairs. Though the area of operation of both the laws on the face of it appears to be very different , yet they do not operate in watertight compartments. There are various areas , subject matters which witness continuous interplay between both , which in some cases lead to a scenario of confusion as to which law is supreme and shall be applied. The confusion as to the applicable law can be categorized briefly into following

2.1 UNCERTAINITY IN JUDICIAL DECISIONS:

The rule of precedents is not strictly followed. The decisions given by one court may vary in the other or if not, the decisions within judgments vary to a great extent. If the permanency of its conclusions is to depend upon the personal opinions of those who, from time to time, may make up its membership, it will inevitably become a theatre of political strife and its action will be without coherence or consistency. If constitutions and laws are 1 to have any meaning, their interpretation must be uniform when applied to the same facts and circumstances, irrespective of the persons before the court. Provisions of the constitution and the law which are unchanged by any amendment cannot mean one thing today and the opposite tomorrow, if this is to be a government of laws and not of men. Constitutional law means what the people wrote and intended; statute law means what the legislative body wrote and intended; and the common law means what the people of trade or community accepted or practiced. The function of the judge is to determine what law is, and to apply it to the facts of the case before him, and he is no judge but a partisan if he changes either the law or the facts to suit his own notions.

The chaos within a jurisdiction can still be overcome due to the existence of the highest level of judicial authority, like Supreme Court in India. The decision laid down by Supreme Court in India is final and binding. But as the title of the paper aims to establish the supremacy of law within the jurisdiction of India, the Constitution of india is expressly certain with respect to it. But the globalisation effect has exaggerated the problem wherein here judicial activism come for the rescue. When the Municiapal law and international law collides within the territyories of India, the scenario in such cases is discussed in the following segment. The approach of Indian judiciary towards tolerance of International law can be categorised into following:

2.1.1 WHEN INDIAN JUDICIARY OVER RULED THE INTERNATIONAL JUDGMENTS

The machinery of justice in India, amidst all the din and clamor of democracy, has been influenced by rule of law.

Initially the domestic courts in India have been reluctant to incorporate international treaty provisions into our domestic courts unless an enabling provision has been passed to that effect by the legislature.

For a very long time the court has been tilted towards the application of Domestic Law and "Tractor export Case [8]"was one of the important cases which highlighted such openion of the judiciary wherein it stated: "Once Parliament has legislated, the Court must first look at the legislation and construe the language employed in it. If the terms of the legislative enactment do not suffer from any ambiguity..., they must be given effect to even if they do not carry out the treaty obligations. But the treaty or the Protocol becomes important if the meaning of the expressions used by the Parliament is not clear and can be construed in more than one way. The reason is that if one of the meanings which can be properly ascribed is in consonance with the treaty obligations and the other meaning is not so consonant, the meaning which is consonant is to be preferred."

State of West Bengal v. Kesoram Industries[9] reiterated that India follows the "doctrine of dualism" and that "a treaty entered into by India cannot become law of the land…unless Parliament passes a law as required under Article 253"

Shri Krishna Sharma v The State of the West Bengal [10]

Calcutta High Court stated that the Indian Courts would apply rules of internal law which includes (a) the Constitution of India, (b) the Statute enacted by the Parliament of India, and (c) the Statutes enacted by the State Legislatures. The Court held:

[8] AIR1970SC1168
[9] AIR 2005 SC 1646
[10] AIR 1954 Calcutta 591

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

Gramophone Company of India Ltd. v. Birendra Bahadur Pandey[11], the observations of the Supreme Court relate to the binding force of the customary rules of International Law. From the decision of this case it was made clear that the **Indian Courts shall apply customary International Law in India to the extent they are not inconsistent with the municipal laws.** The Court further held that "The comity of Nations require that Rules of International Law may be accommodated in the Municipal Law even without express legislative sanction provided they do not run into conflict with Acts of Parliament. But when they do run into such conflict, the sovereignty and the integrity of the Republic and the supremacy of the constituted legislatures in making the laws may not be subjected to external rules except to the extent legitimately accepted by the constituted legislatures themselves. The doctrine of incorporation recognizes the position that the rules of international law are incorporated into national law and considered to be part of the national law, unless they are in conflict with an Act of Parliament. Comity of nations or no, Municipal Law must prevail in case of conflict.

Vellore Citizens Welfare Forum v. Union of India [12] and Others, referring to the "precautionary principle‟ and the "polluter pays principle‟ as part of the environmental law of the country, held as follows: "Even otherwise, once these principles are accepted as part of the Customary International Law there would be no difficulty in accepting them as part of the domestic law. It is almost accepted proposition of law that the rules of Customary International Law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the Courts of Law."

With the globalizing world the need for incorporation of international laws, treaties increased to a great extent and there was a paradigm shift in the approach of Judiciary

[11] AIR 1984 SC 667
[12] AIR 1996 SC 271

in not just application of international and infact by placing great importance to international covenants, treties etc in order to decide cases in absence of any domestic law on any subject matter. Thus we come to the second scenario wherein Indian Judiciary relied on International law for domestic issues.

2.1.2 WHEN INDIAN JUDICIARY ACCEPTED THE INTERNATIONAL JUDGMENTS

Since international law does not impose on states any obligations to execute international law in a particular way, a state is free to either adopt international law automatically and globally or to adopt or to adopt each international norm specifically. The relation between international law and municipal law, evidence by the method of incorporation of international law into municipal law, is one of the classic questions, both in general international law and in the various domestic legal systems. As O`Connell states, "it would be difficult to discover a municipal law system which did not utilise international law rules as the norms of the decisions."

Kesavananda Bharati V. State of Kerala [13] Sikri, C.J., "while referring to the provisions of the UN Charter on human rights, observed: in view of Art 51 of the directive principles, this Court must interpret the language of the Constitution, if not intractable, which is after all a municipal law, in the light of the United Nations Charter and the solemn declaration subscribed to by India." The doors were therefore thrown wide open for international law to play a part in the development of human rights and personal liberties in this country.

Kubic Dariusz v. Union of India [14]**,** the Supreme Court held that, "it is generally a well recognized principle in national legal system that in event of doubt the national rule is to be interpreted in accordance with the state's international obligations. There is need for harmonization whenever possible bearing in mind the spirit of the covenants."

Mackinnon Mackenzie v. Audrey D' Cousta**,** the supreme court considered the fact that India was a party to the International Convention concerning Equal Remuneration for Men and Women for work of Equal Value, and adopted a principle adopted therein to construe a law enacted by the Parliament, namely, the Equal Protection Act, 1976 to grant relief to the

[13] (1973) 4 SCC 225)
[14] 1990 (48) E.L.T. 171 (S.C.)

petitioner by holding that the action of the employer to be unconstitutional violation of the principle of equal pay for equal work.

Sheela Barse v. Secretary Children's Aid Society[15], while issuing directions to the State of Maharashtra, the Supreme Court held that the conventions which had been ratified by India, and elucidate norms for the protection of children, cast an obligation on the state to implement their principles. Thus the court in a break from its earlier judgments came to the conclusion that treaties, even if unincorporated into national law, have binding effect

Vishaka v. State of Rajasthan[16] wherein the court held that international conventions and norms were to be read into fundamental rights in the absence of enacted domestic law occupying the field. The court held that it could rely on international conventions in case of a void in the domestic law.

Githa Hariharan v. Reserve Bank of India[17], where the Supreme Court held that" the Convention on the Elimination of all forms of Discrimination Against Women. 1979(CEDAW) and the Beijing Declaration, which directs all State parties to take appropriate measures to prevent discrimination of all forms against women is quite clear. India is a signatory to CEDAW having accepted and ratified it in June, 1993. The interpretation that we have placed on Section 6(a) of HMG Act gives effect to the principles contained in these instruments. The domestic courts are under an obligation to give due regard to International Convention and Norms for construing domestic laws when there is no inconsistency between them."

2.2 INTERNATIONAL ORGANIZATION

The concept of supremacy of law is vibrant and non-uniform when it comes to international footing owing to the concept of sovereign. The sovereign can easily be established within territorial defined limits but on an international front where the territory is one, who comes a sovereign is the matter of concern.

RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS IN INDIA

Section 13 of the Indian Civil Procedure Code ,1908 lays down a seven fold criteria, the fulfillment of which will impart a foreign judgment, brought before an Indian court for recognition and enforcement, finality and conclusiveness. According tom the said section13

[15] AIR 1980SC 470
[16] AIR ***1997*** SUPREME COURT 3011
[17] AIR1999SC1149

of CPC, a foreign judgment shall be conclusive between the parties as to any matter directly adjudicated upon R Vishwanthan v. Rukn-ul-Mulk Syed Abdul Wajid, [18]as also their parties litigating under the same title. However, its conclusiveness can be challenged on following grounds, namely

(a)where it has not been pronounced by a court of competent jurisdiction.

(b) where it has not been on the merits of the case.

(c) where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recoginise the law of India in cases in which such law is applicable

(d) where the proceedings in which the judgment was obtained are opposed to natural justice

(e) where it has been obtained by fraud.

(f) where it sustains claim founded on a breach of any law in force in india

For a refusal to recognize to the applicable Indian law by the foreign court, there is a classic example of **Y.Narasimha Rao v. Y. Venkatalakshmi** [19]Wherein supreme court refused top recognize the ex parte decree of divorce given by a new mexico court on the basis of the New Mexican Law. The marriage between the parties had, in fact, been solemnized in India as per Hindu Law. According to the Supreme Court, it could be dissolved only on the basis of that law, i.e. the Hindu Law.

Accordingly, any foreign decree procured by fraud, though obtained in conformity with the lex fori as to the jurisdictional competence of the foreign court which issued the decree, can be impeached for fraud when a suit is instituted before a local court for its recognition and enforcement. If a foreign judgment can be so impeached for fraud, it entails reopening the merits of the case which have already been determined by the foreign court. Consequently, the basic principle of conflict of laws, namely that the merits cannot be reopened, suffers a setback.

[18] AIR 1963 SC 1 p.14
[19] AIR 1991 SC 821

The said principle is further eroded by the common law rule, namely that whereas a local judgment cannot be impeached for fraud in the absence of fresh evidence, a foreign judgment, on the contrary, can be impeached for fraud even without such evidence.

In the case of ***Owens Bank Ltd v Bracco*** (1992) 2 ALL E.R. 193), Lord Bridge, speaking for the unanimous court , emphatically endorsed the common law rule of discriminating foreign judgment rendered on merit vis-s-vis local judgment in respect of their finality and conclusiveness where the defense of fraud received due judicial consideration on the part of the Foreign Court. Lord Bridge , in course of his judgment, observed that where there might be strong policy arguments for giving a foreign judgment the same finality as an English judgment , it was out of the question to alter the common law rule so that it was different from a statutory rule , and to do so is to mock at the common law which has presumably received legislative endorsement. Section 13(e) of the Indian Civil Procedure Code is arguably, cast in the same mold as Section 9(2)(D) of the Administration of Justice Act 1920 and Section 4(1)(a)(iv) of the Foreign Judgment (Reciprocal Enforcement)Act 1933. If a Foreign Judgment rendered on merits can be re-opened by courts in England , even if the allegations of fraud received due notice and consideration at the hands of the concerned foreign court, it strikes at the root of the science of conflict of laws and makes a mockery of the doctrine of comity born out of the impartiality and objectivity of courts of law of the civilized world.

The Supreme Court's opinion in ***Gideon v. Wainwright*** [20]secured the right to counsel for indigent criminal defendants unable to afford legal assistance on their own. The decision in Gideon was grounded in the Sixth Amendment to the Constitution, which guarantees criminal defendants "the assistance of counsel." At issue in Gideon was whether this guarantee of assistance required the state to provide legal counsel if a defendant could not afford to exercise his or her constitutional right.In a criminal trial, the state has many resources at its disposal, including lawyers who prosecute the state's case. As Justice Black notes, it is difficult to claim that a defendant has been treated with fairness and impartiality and has been given equal standing before the law if the defendant must face the state without a lawyer of his or her own.

[20] 372 U.S. 335 (1963)

In case **Neerja Saraph v. Jayant Saraph**[21] The Supreme Court held that in an action brought before the court by a deserted wife of a non resident indian husband for maintenance made a threefold recommendation to the legislature for its thoughtful consideration which partake of the character of ratio. They are:

(a) no marriage between an NRI and an Indian woman which has taken place in India may be annulled by a foreign court.

(b)provision may be made for adequate alimony to the wife in the property of teh husband both in India and abroad

(c) the decree granted by Indian courts may be executable in foreign courts both on principle of comity and by entering into reciprocal agreements like section 44-A OF THE CPC WHICH MAKES A FOREIGN DECREE executable as it would have been a decree passed by that court.

If the English Court under the common law of England could reopen foreign judgment rendered on merits if there be fraud on the part of plaintiff, even if the issue of fraud had, as aforesaid, been judicially determined by the foreign court, the supreme court of India goes a step further by debarring altogether a foreign court from even entertaining the action!

3: CONCLUSION

Hence, after understanding the historical background of application of international law in domestic sphere and tracing the sequence of cases we may safely conclude that there is a "paradigm" shift in the approach of the court which has not been achieved in a single case but through a series of cases, starting from Jolly Vargehese and finally culminating into the marvelous judgment given in Vishakha case. These cases providing a breakthrough in the sense that where treaties first had to go through the "Transformation" into domestic law this view has changed over a period of time and one can see the trend shifting towards "Incorporation" doctrine for at least those who care for such classification). However this should not confuse us into leading to a conclusion that consistency has been maintained throughout. Taking into consideration that there is no consistency in the approach of the court one is persuaded to agree with V.S Mani when he states that the "Indian Judiciary has not been able to evolve a uniform approach to construction of treaty implementing statutes and that it tends to be seriously inhibited by its essentially municipal law orientation. The

[21](1994) 6 SCC 461

approach of the Indian judiciary towards adapting the international law has been considerate but not parallel. Whatever suited the facts and circumstances viz-a-viz the sovereign and population, such has been incorporated. It can neither be said that Indian laws are intolerant towards the international approach nor can be concluded that the Indian laws stand at par with the international laws. The status quo is that whatever is best suited within the territorial boundaries of India, which neither affects the sovereign nor hurt the sentiments of the population is best applied and adopted when it comes to adopting international approach and the decisions of the international organizations or the foreign courts.

It can be comfortably concluded that the expression "supremacy of law" is the rule within the territorial boundaries of a state but on the international front, only the will of the respective sovereign is supreme. The paper has successfully evidenced the difficulties of enforcement and recognition of foreign awards in India as well as the issues that arise during the adjudication in the international organizations like International Court of Justice. Therefore, it can be rightly said that the expression "supremacy of law" is a myth on the international front.