



A LEGAL ANALYSIS OF THE PRACTICE OF THE RATIFICATION AND  
DOMESTIC INCORPORATION OF HUMAN RIGHTS TREATIES IN UGANDA

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By Peter Busiku

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## Approval of Thesis

### A LEGAL ANALYSIS OF THE PRACTICE OF THE RATIFICATION AND DOMESTIC INCORPORATION OF HUMAN RIGHTS TREATIES IN UGANDA

This thesis by Mr. Peter Busiku has been approved by the committee members below, who recommend it be accepted by the faculty of Unicaf University in Zambia in partial fulfilment of requirements for the degree of

Doctor of Philosophy (PhD) in Law and Politics

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## Abstract

### A LEGAL ANALYSIS OF THE PRACTICE OF THE RATIFICATION AND DOMESTIC INCORPORATION OF HUMAN RIGHTS TREATIES IN UGANDA

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The ratification and domestic incorporation of international human rights treaties represent important mechanisms through which states commit to the protection and promotion of fundamental rights. However, the extent to which these international commitments translate into effective domestic legal protections varies across jurisdictions. In Uganda, although the state has ratified several core international and regional human rights treaties, the processes through which these obligations are incorporated into domestic law and institutional practice remain uneven and insufficiently examined. This study therefore investigates the effectiveness of Uganda's legal and institutional frameworks in the ratification and domestication of international human rights treaties.

The research addresses three principal questions: How effective are Uganda's legal and institutional frameworks in the ratification and implementation of international human rights treaties; to what extent are Uganda's domestic laws aligned with international human rights treaty obligations; and what are the implications of Uganda's status as a State Party to international human rights treaties. A qualitative case study approach was adopted. Primary data were collected through semi-structured interviews with nineteen purposively selected participants drawn from key institutions involved in treaty governance, including government ministries, Parliament, legal practitioners, academia, and civil society organisations. Secondary data was obtained through documentary analysis of legislation, parliamentary debates, policy documents, and international human rights reports. Data was analysed using grounded theory techniques.

The findings indicate that Uganda has established formal legal and institutional frameworks governing treaty ratification and domestication, particularly through the Constitution of Uganda (1995) and the Ratification of Treaties Act. However, the effectiveness of treaty implementation is shaped by legislative delays, institutional coordination challenges, and varying levels of political commitment. The study demonstrates that treaty ratification should be understood as the starting point of a broader domestic implementation process requiring sustained legislative reform, institutional capacity, and engagement with international human rights mechanisms.

### Declaration

I declare that this thesis has been composed solely by myself and that it has not been submitted, in whole or in part, in any previous application for a degree. Except where stated otherwise by reference or acknowledgement, the work presented is entirely my own.

## AI Acknowledgment

### **Use of AI:**

This thesis was prepared by the author. During the writing process, Grammarly was used selectively to assist with language refinement, grammar checking, and stylistic consistency. The tool was particularly helpful in improving clarity and readability, mainly within the literature review section.

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### Dedication

I dedicate this work to my wife, Dr. Blandina Nakiganda, and children, Austin Peter Busiku, Aldrin Paul Busiku, Aime Immaculate Busiku, and Arianna Kirabo Busiku, for the support they provided me during the process. May the Almighty God reward them abundantly.

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**List of Abbreviations**

<b>VCLT</b>	Vienna Convention on the Law of Treaties (1969)
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>UN</b>	United Nations
<b>UNCLOS</b>	Convention on the Law of the Sea
<b>AU</b>	African Union
<b>IMC</b>	Inter-ministerial Committee
<b>RCT</b>	Rational Choice Theory
<b>CRC</b>	Convention on the Rights of the Child
<b>RTA</b>	Ratification of Treaties Act
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities

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## CHAPTER 1: INTRODUCTION

### 1.1 Introduction

International agreements, including human-rights treaties, operate within the realm of international law and hinge fundamentally on the commitment of States to assume obligations. By signing and ratifying such treaties, States signify their willingness to be bound by their terms and to act in accordance with them (Yunus, Sholeh & Susilowati, 2023). In practice, States often designate representatives to negotiate and sign treaties *ad referendum*, thereby reserving ratification until a competent national organ gives final approval. Under the Vienna Convention on the Law of Treaties (VCLT) 1969, Article 10, signature is conditioned on such confirmation; Article 12 (2)(b) confirms that the treaty only becomes binding when the responsible organ, usually the executive or legislature, gives its assent (Barrett & Beckman, 2020).

Human-rights treaties are central to the international legal order. Among the key instruments are the International Covenant on Civil and Political Rights (ICCPR, 1966), the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), and the Convention on the Rights of the Child (CRC, 1989). Uganda ratified these treaties on 21 June 1995, 21 January 1987, and 17 August 1990, respectively, thereby assuming the duties associated with them. By acceding to such treaties, States undertake to respect their object and purpose, to take steps towards their implementation, and to submit periodic reports on such steps taken (Son, 2023).

The procedural architecture for treaty ratification varies markedly across political systems. While some States proceed from signature to domestic ratification with minimal delay, others may sign without ever ratifying. For example, the United Nations Convention on the Law of the Sea (UNCLOS) was signed by the United States in 1994 but remained unratified by the

U.S. Senate by 2020 (Verma, 2020). In contrast, Uganda ratified the CRC in September 1990 but only completed its domestic implementation in 1996, illustrating a significant lag between ratification and effective domestic realisation.

Signature of a human-rights treaty may signal a state's intention to commit to international norms. However, signature alone does not guarantee actual compliance or domestic enforceability. Ratification followed by domestication through legislation, judicial incorporation or administrative translation is crucial for converting international commitments into internal legal and institutional effect. Such domestic endorsement enhances the credibility, legitimacy, stability and enforceability of treaty obligations within a State's legal order (Abdullahi & Muisa, 2023).

Existing literature, however, demonstrates significant gaps in the analysis of the processes of treaty ratification and domestic incorporation (domestication). While authors such as Afzal & Mushtaq (2023) and Yunus et al. (2023) have addressed the link between ratification and State sovereignty, their focus tends to overlook institutional and procedural dynamics. McInerney (2021) explored determinants of treaty effectiveness in the context of a proposed pandemic treaty, and Vignoli & Corradi (2023) addressed delays in treaty ratification, both calling for further interrogation of underlying motivations and mechanisms. More recently, Maestas (2024) has emphasised the concept of "deepening commitments" as optional post-ratification measures that States may adopt to strengthen treaty implementation. This study seeks to extend the discourse by analysing the motivations and mechanisms that underpin a state's decision to ratify and domesticate treaties, with a particular focus on Uganda.

## 1.2 Background to the Study

The VCLT outlines the various ways a State can demonstrate its consent for a treaty to bind it. These methods include signing the treaty, exchanging instruments that establish the treaty, ratification, acceptance, approval, or accession, as well as any other agreed-upon means (Articles 10 and 18, VCLT). Furthermore, the VCLT allows a State to voluntarily subscribe to a treaty and requires it to fulfill the commitments specified within that treaty. If necessary, a State also has the option to withdraw from the treaty (Mayer, 2020).

The epistemological foundation of this research is grounded in the RCT. At its core, RCT emphasises rationalism, proposing that States comply with international obligations mainly due to material incentives and the pursuit of self-interest (Opp, 2021). Therefore, a state's decision to adhere to a human rights treaty is influenced by self-serving considerations aimed at furthering its interests.

Additionally, the research incorporates Institutional Theory, which posits that institutional pressures lead to similarities (isomorphism) among organisations. Isomorphism enhances organisational legitimacy; when an organisation conforms to widely accepted practices, such as respect for human rights, it gains acceptance and support from its environment. As legitimacy is crucial for competition, organisations adopt practices perceived as most legitimate, ultimately leading to similar operations (Kauppi, 2022).

Constructivism is a social theory that emphasises the role of ideas, norms, and social interactions in shaping international relations, including the ratification of binding treaties. It argues that significant aspects of the international system are socially constructed and, therefore, can be changed, rather than being determined by inherent or natural laws. According to social constructivism, the identities and interests of actors such as States and UN agencies are crucial for

understanding foreign policy and the dynamics between States (Flockhart, 2024; Erbas, 2022). Although these theories discussed above have faced criticism for their seemingly unrealistic assumptions (Herfeld, 2020), they remain valuable and have been adopted in this research.

Treaty ratification is defined as "an act by which a state signifies an agreement to be legally bound by its terms" (Article 10 of VCLT). To ratify a treaty, a state must first sign it and then fulfill its national legislative requirements. The VCLT further stipulates that during the period between ratification and the adoption of corresponding domestic legislation, a state party to a treaty is prohibited from taking any actions that may defeat or contravene the spirit of the treaty (Article 18).

According to Klabbers (2023), ratification is the process by which a state formally consents to be bound by a treaty, demonstrating its commitment to adhering to the norms and principles of international relations. The author notes that human rights treaties require strong State commitments, often necessitating domestic legal reforms. However, the author further argues that a gap between international obligations and domestic capabilities can result in ratified treaties becoming non-binding, primarily due to a state's inability to comply with their provisions. This inability is often attributed to factors such as financial constraints.

A treaty can be defined in various ways, but the VCLT specifically defines it as "an international agreement concluded between states in written form and governed by international law" (Article 2(a)). Ratification is the act of signing and formally consenting to a treaty, which is what gives it official validity (Article 2). Some domestic laws require extensive procedures for domestication, involving approval from the Cabinet and/or Parliament, while others allow treaties to take effect immediately upon ratification (Ghouri, 2021).

The VCLT permits a state to join a treaty voluntarily, but this does not automatically grant the treaty legal force. The process of implementing the treaty can vary significantly depending on whether the state recognises international law as automatically applicable or requires domestic incorporation. In monist systems, international and domestic laws are viewed as part of the same legal framework. In contrast, dualist systems require more rigorous procedures to incorporate international law into domestic legislation, as noted by Hayrullohoğlu (2022).

According to Garg (2023), in a monist system, a State can seamlessly integrate international treaties into its domestic law without the need to enact or adopt new legislation. Once a state ratifies a treaty, it becomes part of its national law automatically. For example, the 2010 Kenyan Constitution explicitly acknowledges international instruments, stating that any ratified treaty shall be considered part of national law (Articles 2(5) and 2(6)). Despite this unified legal framework, a hierarchy is essential to resolve any potential conflicts between domestic and international laws. Garg (2023) explains that "monism posits that international law is incorporated into and superior to domestic law, creating a unified legal system where international law governs over domestic laws" (p. 60).

On the other hand, dualists contend that international law and domestic law constitute two distinct legal systems that function independently. The dualist system necessitates a State ratifying an international treaty to incorporate that treaty into its national legal framework initially in order to enforce it. This means that treaties are enforced using domestic law.

Uganda's historical trajectory since independence reveals that political will has shaped both the pace and depth of treaty engagement. Early post-independence governments, dominated by the Uganda People's Congress (UPC), framed international law largely in terms of sovereignty

and non-interference, often ratifying major treaties such as the International Convention on the Elimination of Racial Discrimination (ICERD, 1980) without developing implementing legislation. The 1986 National Resistance Movement (NRM) government, led by President Museveni, adopted a more expansive rhetoric of rights, reflected in the progressive 1995 Constitution. NRM manifestos have consistently committed Uganda to international cooperation, but domestication has lagged, with many reforms remaining declaratory rather than substantive. Opposition parties such as the Democratic Party (DP) and Forum for Democratic Change (FDC) have, at various points, criticized the government's selective domestication of treaties, especially in areas of civil and political rights, but these positions have rarely translated into legislative reforms (Kamya, 2011).

The record of ratifications underscores this mixed legacy. Uganda ratified CEDAW (1985), the CRC (1990), and the CAT (1986) relatively early, yet key domestic legislation such as the Children Act (1996; amended 2016/2019) and the Prevention and Prohibition of Torture Act (2012) only followed years later, revealing long gestation periods. Similarly, Uganda ratified the ICCPR in 1995, the same year as the new Constitution, but practical domestication relied on judicial activism (e.g., *Muwanga Kivumbi v. AG* [2008]) and the Human Rights (Enforcement) Act (2019), almost 25 years later. Economic, social, and cultural rights treaties, such as ICESCR (ratified 1987), remain only partially domesticated, primarily through sectoral policies on education, health, and labor, with implementation constrained by fiscal limits. The CRPD (2008) was relatively better integrated, culminating in the Persons with Disabilities Act (2020), while regional treaties such as the African Charter on the Rights and Welfare of the Child (1994) were domesticated through the Children Act, albeit slowly.

At the regional level, Uganda ratified the African Charter on Human and Peoples' Rights (1986) and later the Maputo Protocol (2010) and the Kampala Convention (2010). These commitments are significant, yet domestication has remained uneven, with gender-related statutes (e.g., the Domestic Violence Act, 2010; Prohibition of FGM Act, 2010) standing in sharp contrast to lagging enforcement of displacement protections under the Kampala Convention. Meanwhile, Uganda has signed but not ratified critical treaties such as the International Convention on Enforced Disappearances (2007) and the African Charter on Democracy, Elections and Governance (2008), reflecting the government's reluctance to embrace obligations perceived as constraining executive discretion.

Political party manifestos over successive elections reflect this ambivalence. While the NRM highlights Uganda's participation in global human rights mechanisms as a sign of legitimacy, little attention is devoted to translating ratifications into enforceable rights. Opposition parties, though critical, seldom advance concrete legislative proposals in Parliament. This indicates that treaty domestication is not prioritized in Uganda's partisan politics, leaving the process largely technocratic and dependent on executive and bureaucratic discretion.

Overall, Uganda's treaty practice demonstrates a pattern of enthusiastic ratification followed by slow or selective domestication. This has created an accountability gap: international commitments are embraced to bolster legitimacy and international reputation, yet the translation into enforceable domestic rights remains delayed, underfunded, and politically constrained. As Onomrerhinor (2016) argues, such practices can function as façades that mask non-compliance. The domestication delays sometimes spanning decades highlight the tension between Uganda's international aspirations and its domestic realities, underscoring the importance of this study's focus on the intersection of law, politics, and institutional reform.

### 1.3 Statement of the Problem

The domestication of international human rights treaties remains a persistent challenge in Uganda. While the State has ratified several key international instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1987) and the International Covenant on Civil and Political Rights (ICCPR, 1995), the translation of these commitments into enforceable domestic law has been slow, inconsistent, and often fragmented. This gap between treaty ratification and domestic implementation has significant implications for the protection of human rights and the accountability of state institutions (Klabbers, 2023; Naluwairo, 2021). Parliamentary records indicate that the domestication of treaties frequently occurs many years after ratification, with some treaties remaining unimplemented for more than a decade (Parliamentary Hansard, 2023).

The consequences of this ratification-domestication gap are evident in several areas of human rights protection. Despite Uganda's commitments under international labour conventions, for example, the National Social Security Fund currently covers less than 20 percent of the workforce, leaving a large proportion of workers without adequate social protection (ILO, 2022). Similarly, although Uganda is a State Party to the International Covenant on Civil and Political Rights, concerns have been raised regarding cases of enforced disappearances and arbitrary detention. Reports by the Uganda Human Rights Commission documented more than 500 cases of abductions and enforced disappearances between 2020 and 2022, many associated with security operations during the electoral period (UHRC, 2022). Independent investigations by Human Rights Watch also reported instances where security agencies detained individuals incommunicado for extended periods, raising concerns about compliance with international human rights standards (Human Rights Watch, 2021).

Judicial decisions have occasionally attempted to bridge the gap between international obligations and domestic enforcement. In cases such as *Muwanga Kivumbi v Attorney General* (2008) and *Foundation for Human Rights Initiative v Attorney General* (2011), the Constitutional Court recognised the relevance of international human rights treaties in interpreting constitutional rights. However, while these judicial developments represent important steps toward incorporating international human rights norms into domestic law, they remain insufficient to address the broader structural challenges associated with treaty domestication (Naluwairo & Ojambo, 2021).

The problem is further compounded by the institutional complexity of the treaty domestication process. Translating international treaty commitments into domestic law requires coordination among multiple government institutions, including the Ministry of Foreign Affairs, the Office of the Attorney General, Parliament, and sectoral ministries responsible for implementing treaty obligations. Weak coordination among these institutions, combined with competing legislative priorities and limited administrative capacity, may affect the pace and effectiveness of treaty implementation.

Although previous studies have examined Uganda's participation in international human rights treaties and the normative obligations arising from those treaties, relatively limited empirical research has focused on the institutional processes through which treaty commitments are translated into domestic law. Understanding these processes is essential for explaining the persistent gap between ratification and implementation.

Therefore, while Uganda has demonstrated formal commitment to international human rights frameworks through treaty ratification, the absence of timely and effective domestication continues to limit the practical realisation of these obligations. Addressing this gap is essential not

only for ensuring compliance with international legal commitments but also for strengthening the institutional mechanisms through which human rights are protected within the Ugandan legal system.

#### **1.4 Purpose of the Study, Research Aims, and Objectives**

This section outlines the study's purpose, aims, and objectives.

##### **1.4.1 Purpose of the Study**

The purpose of this study is to examine the legal and institutional frameworks governing the ratification and domestic incorporation of international human rights treaties in Uganda. Although Uganda has ratified numerous international and regional human rights instruments, the extent to which these commitments are translated into domestic law and practice remains uneven. This study therefore analyses how Uganda's legal system and institutional arrangements shape the process of ratifying and incorporating international human rights treaties into the national legal order.

##### **1.4.2 Research Aim**

The aim of this study is to analyse the legal and institutional frameworks governing the ratification and domestic incorporation of international human rights treaties in Uganda, and to examine how these frameworks influence the implementation of Uganda's international human rights obligations within the national legal system.

##### **1.4.3 Research Objectives**

The objectives of this study are:

1. Examine Uganda's legal framework governing the ratification and domestic incorporation of international human rights treaties.

2. Analyse the institutional mechanisms involved in the ratification and implementation of international human rights treaties in Uganda.
3. Examine the extent to which Uganda's domestic laws are consistent with the international human rights treaties.
4. Examine the implications of Uganda's status as a State Party to international human rights treaties.

The first research question is addressed through two complementary objectives: Objective 1 focuses on Uganda's legal framework, while Objective 2 examines the institutional mechanisms involved in treaty ratification and implementation.

## **1.5 Nature and Significance of the Study**

This section addresses the nature and significance of the study. It commences by outlining the study's nature and subsequently explores its significance.

### **1.5.1 Nature of the Study**

This research adopts an empirical strategy underpinned by a qualitative approach and a case-study design. Such a design is particularly appropriate when the aim is to generate rich, contextually grounded data that facilitate a detailed understanding of a phenomenon within its real-life boundary (e.g., Crowe et al., 2011; Annamalah, 2024). The choice of a relatively small but purposively selected sample supports an orientation toward analytical depth rather than breadth, enabling deeper exploration of human behaviour and experience phenomena that often resist quantification (Lim, 2025). Through the case study design, the “how” and “why” questions central to the inquiry are addressed by situating the phenomenon in its social, institutional and legal context (Chowdhury & Shil, 2021).

Given that this is a socio-legal investigation, it is inherently multidisciplinary, recognising the interdependence of law and society. The study involves the examination of how legal norms, international treaty commitments and institutional practices operate in and through social structures, thereby assessing the role of law in shaping, maintaining or transforming social institutions.

Primary data were gathered via semi-structured interviews with key informants, including staff from the Attorney-General's Chambers and the Ministry of Foreign Affairs who are involved in treaty negotiations and international legal processes. This method allows for direct interaction with participants and enables the researcher to observe nonverbal cues (such as gestures or tone) that may reveal additional meaning beyond verbal responses. The semi-structured interview format similarly permits the researcher to pose follow-up questions or pursue emergent lines of inquiry, thus enabling discovery of unanticipated insights (Robinson, 2023).

In addition to interviews, secondary data were collected through a documentary review of relevant literature, policy documents, official reports, international treaties and related archival materials. A structured checklist was developed to guide the documentary review; this ensured that relevant dimensions of the phenomenon such as institutional procedures, normative commitments and implementation mechanisms were systematically explored. The combination of interviews and documentary review enabled methodological triangulation, thereby enhancing the credibility and dependability of the research findings through the corroboration of multiple sources (Rahimi, 2024; Delve Tool, 2024).

For data analysis, a grounded theory approach was employed. Interviews were audio-recorded (with participants' consent) and subsequently transcribed verbatim. The researcher then engaged in a process of thorough review of field notes and transcripts, applying coding techniques

(open, axial and selective) to identify conceptual categories and emergent themes. The coded material was then aggregated into broader thematic groupings, from which the researcher derived a theoretical framework rooted in the empirical data (Ali, 2024). This inductive analytical strategy ensures that the resulting theory is grounded in participants' experiences and situated within the institutional and socio-legal context under investigation.

### **1.5.2 Significance of the Study**

This research carries considerable significance by directly responding to contemporary challenges in the ratification and domestic implementation of international human-rights treaties. Existing empirical work has indicated the need for deeper investigation into these processes; for example, quantitative analyses have typified much of the literature (Chelotti, Dasandi & Mikhaylov, 2022), and calls for further exploratory work have become more pronounced (Hoffman et al., 2022; Vignoli & Corradi, 2024).

This study offers an important contribution by focusing on a relatively under-researched context: the treaty domestication processes in Uganda. Much of the prevailing scholarship relies on quantitative indices of compliance and ratification; by contrast, this research utilises a qualitative socio-legal approach to uncover the contextual dynamics, institutional bargaining, and procedural delays that often remain invisible when relying solely on compliance metrics (Mbazira, 2019; Viljoen & Murray, 2024). Through in-depth interviews and thematic coding, the study surfaces the complex interplay of political negotiation, institutional design, and socio-legal practices that shape the domestic realisation of treaty obligations.

The beneficiaries of this research are multiple. For policy-makers, the findings provide empirical evidence that can inform reforms aimed at streamlining the domestication process and strengthening institutional frameworks. For civil society organisations, the insights offer an

enhanced evidentiary basis to support advocacy initiatives and refine engagement with both governmental agencies and international treaty monitoring mechanisms. For judiciary and legal practitioners, the study illuminates how international commitments interlink with domestic legal practice thereby enabling more effective interpretation and enforcement. Finally, for vulnerable and marginalised communities, the research has indirect but tangible potential to improve protective mechanisms by supporting a more robust translation of treaty commitments into national law and practice.

The study advances originality by addressing three distinct gaps in the extant literature. First, it tackles process gaps by examining the procedural delays and political bargaining that hinder effective treaty domestication in Uganda a phenomenon flagged in comparative work on treaty ratification time-lags (Vignoli & Corradi, 2024). Second, it addresses methodological gaps, moving beyond reliance on compliance-index metrics and instead deploying a qualitative socio-legal methodology that captures context-specific dynamics and lived experiences of implementation (Caporale, 2019). Third, it responds to theoretical gaps by integrating multiple theoretical perspectives such as rational-choice, institutionalism and constructivism to produce a more holistic analytical framework for understanding treaty compliance in African states.

This study identifies and addresses a significant knowledge gap in the field: that of how treaty ratification in principle becomes meaningful domestic practice in Uganda's specific institutional context. By doing so, it expands the boundaries of academic knowledge in this area, offering both theoretical elaboration and empirical insights with relevance for research, policy and practice alike.

## **1.6 Research Questions and Research Hypothesis**

The following research questions guided the research.

1. How do Uganda's legal and institutional frameworks shape the ratification and implementation of international human rights treaties?
2. To what extent are Uganda's domestic laws consistent with the international human rights treaties to which the country is a State Party?
3. What are the implications of Uganda's status as a State Party to international human rights treaties for the protection and promotion of human rights at the national level?

### **1.7 Treaty Adoption Process in Uganda**

The process of treaty adoption and ratification in Uganda is constitutionally grounded and legislatively structured to ensure that international commitments are undertaken through formal and accountable procedures. Article 123 of the 1995 Constitution vests the authority to execute treaties, conventions, and agreements with the President or an authorised representative acting on behalf of the Government. However, Article 123(2) mandates Parliament to enact laws governing the procedure for treaty ratification. In fulfilment of this constitutional directive, Parliament enacted the Ratification of Treaties Act (RTA) in 1998, which operationalises the provisions of Article 123 and delineates the distinct roles of the executive and legislature in the treaty process (Republic of Uganda, 1998).

Section 2 of the RTA establishes the formal procedure for ratification. It provides that, in general, treaties shall be ratified by the Cabinet, except in cases where parliamentary approval is explicitly required. Specifically, Section 2(b)(i) mandates that treaties concerning matters of armistice, neutrality, or peace must be ratified by Parliament through a formal resolution. Similarly, Section 2(b)(ii) stipulates that where the Attorney General certifies in writing that the implementation of a treaty necessitates an amendment to the Constitution, parliamentary

ratification is obligatory. This statutory framework ensures that the exercise of treaty-making power remains consistent with constitutional principles of separation of powers and democratic oversight (UNECE, 2022; Nakayi, 2023).

The Cabinet's ratification procedure begins with the establishment of an Inter-Ministerial Committee (IMC), which is responsible for conducting a comprehensive evaluation of the treaty under consideration. The IMC assesses the potential benefits, obligations, and financial implications arising from Uganda's accession to the treaty, and considers its alignment with national interests and development priorities. Following this appraisal, if the IMC determines that the treaty is favourable, the Minister responsible prepares a Cabinet Memorandum seeking authorisation for ratification. The submission must include a legal clearance certificate from the Attorney General confirming the treaty's compliance with domestic law, a financial implication certificate from the Ministry of Finance, and documentary evidence of consultations with relevant stakeholders (UNECE, 2022). Once these requirements are satisfied, the Cabinet deliberates on the memorandum and, upon approval, issues a minute authorising the Minister of Foreign Affairs to sign and deposit the instrument of ratification, accession, or acceptance with the designated depositary.

Section 4 of the RTA further requires that once the Cabinet has ratified a treaty, it must be presented before Parliament at the earliest opportunity, in accordance with Rule 40 of the Parliamentary Rules of Procedure (2021). This provision underscores the principle of parliamentary accountability in the treaty process and ensures transparency in executive actions relating to international obligations. In circumstances where a treaty falls within Parliament's competence under Section 2(b), the Minister responsible introduces a motion before Parliament, accompanied by all supporting documentation. The motion is typically referred to the Committee

on Foreign Affairs or another relevant sectoral committee for detailed scrutiny. After review, Parliament may adopt a resolution authorising ratification, upon which the Minister of Foreign Affairs drafts, signs, and deposits the instrument of ratification or accession with the appropriate international depository (Uganda Parliament, 2021; Vignoli & Corradi, 2024).

The process outlined in the RTA reflects Uganda's adherence to a dualist legal system, as recognised by Musota (2015) and reaffirmed by subsequent analyses (Mbazira, 2023). Under dualism, international treaties become binding at the domestic level only after ratification and domestication through specific legislative or administrative measures. Although ratification binds Uganda internationally, the domestic legal order does not automatically recognise international treaties as a direct source of law under the Judicature Act (Cap. 13). This stands in contrast to the Republic of South Africa, whose 1996 Constitution explicitly directs courts to interpret the Bill of Rights in light of international law (Section 36), thereby incorporating a monist orientation (Viljoen & Murray, 2024). Uganda's dualist approach therefore requires a further step of incorporation through domestic legislation before international norms can be invoked or enforced in national courts.

Overall, the Ugandan treaty adoption process demonstrates a deliberate balance between executive initiative, legislative oversight, and bureaucratic scrutiny. It embodies a structured sequence that begins with inter-ministerial evaluation, progresses through legal and financial clearance, and culminates in Cabinet or parliamentary approval followed by international deposition of the instrument of ratification. This procedure ensures that Uganda's engagement with the international legal order remains constitutionally sound, institutionally transparent, and responsive to national interests. Recent scholarly analyses have continued to underscore the

importance of this process for enhancing accountability, legal coherence, and public trust in Uganda's international commitments (Nakayi, 2023; Viljoen & Murray, 2024).

## CHAPTER 2: LITERATURE

### 2.1 Introduction

This chapter provides a comprehensive review of existing literature relevant to the ratification and domestic incorporation of international human rights treaties. The review serves as a foundational component of the current study by offering insights into theoretical perspectives, empirical findings, and practical experiences from various jurisdictions, with a particular emphasis on Uganda. To ensure scholarly rigor and diversity of sources, the researcher conducted an extensive literature search using several reputable academic databases and digital libraries. These included Web of Science, Google Scholar, EBSCOhost, Cochrane Library, GreenFILE, and ProQuest. The inclusion of multiple databases was aimed at capturing a broad spectrum of peer-reviewed journal articles, legal documents, policy reports, and academic publications that critically discuss the topic at hand.

The chapter begins by exploring the key theoretical frameworks that underpin this study. Specifically, it focuses on Rational Choice Theory (RCT), Institutional Theory, and Constructivist Theory. Each of these theoretical perspectives provides a unique lens for interpreting state behavior in relation to international human rights obligations. Rational Choice Theory posits that states act based on calculated decisions to maximize benefits and minimize costs, suggesting that treaty ratification is a strategic action driven by self-interest. Institutional Theory emphasizes the role of established structures, rules, and norms within states, arguing that institutions significantly influence the extent and manner of treaty implementation. Constructivist Theory, on the other hand, highlights the impact of international norms, identity, and shared values in shaping state behavior, suggesting that compliance with human rights treaties is often driven by a desire for legitimacy and alignment with global standards.

In addition to outlining the theoretical foundation, the chapter discusses several core international and regional human rights instruments that are central to the study. These include the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of Persons with Disabilities (CRPD), and the African Charter on Human and Peoples' Rights, among others. By reviewing these instruments, the study highlights the legal commitments that states, including Uganda, undertake upon ratification and the expectations for domestic implementation. The literature also emphasizes the normative frameworks established by these treaties and how they are translated or at times fail to be translated into national law and practice.

To provide a clear analytical direction, the literature is reviewed in line with the specific research objectives of the study. First, the literature assesses the overall effectiveness of human rights treaties concerning their ratification and subsequent domestic implementation by State parties. It explores how various countries have approached treaty ratification and the extent to which these international commitments have led to tangible improvements in human rights protection within national jurisdictions. Second, the review evaluates the effectiveness of Uganda's institutional framework in ratifying and implementing international human rights treaties. This involves examining the roles of key institutions such as the executive, legislature, judiciary, and human rights commissions in the treaty process and in ensuring compliance with international obligations.

The third research objective guiding this review is the assessment of the consistency between Uganda's domestic laws and the international human rights treaties it has ratified. This analysis is crucial in identifying areas where national legal frameworks may conflict with or fall short of international standards. Lastly, the literature explores the broader implications of

Uganda's status as a State Party to various human rights treaties. This includes obligations related to reporting, enforcement, monitoring, and the political and legal consequences of non-compliance or selective adherence to treaty provisions.

Throughout this chapter, attention is given to the diverse methodologies employed by scholars in previous studies. These include qualitative case studies, legal doctrinal analysis, comparative legal studies, and mixed-methods approaches. By reviewing these methodologies, the study positions itself within existing academic discourse and identifies the most appropriate methodological tools for achieving its objectives.

The literature reviewed also exposes several notable gaps that the current research seeks to address. Among these are the limited focus on the actual processes of domestication in sub-Saharan African contexts, the underrepresentation of Uganda in empirical treaty implementation studies, and the need for a more nuanced understanding of how international norms are internalized by domestic institutions. Identifying these gaps justifies the relevance and contribution of the present study to both academic scholarship and policy formulation.

In conclusion, this chapter synthesizes the key findings and insights from the existing body of literature, establishing a coherent framework for subsequent analysis. The structured review of theories, legal instruments, institutional practices, and methodological approaches provides the necessary context for understanding the motivations and constraints faced by states in ratifying and domesticating human rights treaties. The next section builds on this foundation by presenting the theoretical and conceptual framework that will guide the overall analysis in the remaining chapters of the study.

## **2.2. Theoretical / Conceptual Framework**

Theory plays a fundamental and indispensable role in academic research, functioning not simply as background information but as a central pillar that shapes and directs the entire research process. Its application is essential at every stage of inquiry, from the formulation of research design to the analysis and interpretation of findings. By offering a structured lens, theory enables scholars to engage with complex phenomena in a systematic and coherent manner. It provides the intellectual basis through which relationships among variables can be examined, interpreted, and explained. In doing so, theory allows researchers to move beyond descriptive accounts and engage in deeper analytical exploration that reveals underlying patterns, drivers, and causal relationships.

The significance of theory is clearly highlighted by Rafiu, Yusuf, and Bello (2023), who describe it as an organised body of concepts, assumptions, and propositions developed to explain particular events or behaviours. In their view, theories serve as essential tools that connect abstract reasoning with empirical evidence. They provide a framework that supports both the conceptualisation of research problems and the interpretation of data within a wider scholarly context. This role is especially important in the social sciences, where variables are often interconnected and shaped by diverse contextual influences. By linking theoretical ideas with observable realities, theory strengthens the rigor, consistency, and relevance of academic research.

Building on this foundational role, the notion of a theoretical framework emerges as a key element in the research process. Rather than being a mere collection of theories, a theoretical framework represents a logically organised integration of ideas that guides the study. Luft (2022) characterises it as a coherent explanatory structure that helps interpret the phenomenon under investigation while also justifying the chosen research design. It assists researchers in defining the

scope of their study, clarifying key concepts, and identifying the relationships among variables, thereby ensuring that the inquiry is grounded in established knowledge.

When combined with a conceptual framework, which outlines the researcher's assumptions, operational definitions, and underlying propositions, the analytical clarity of the study is further strengthened. Luft (2022) emphasises that the integration of both frameworks enhances the transparency and depth of the research process, making it easier for other scholars to assess, replicate, or build upon the study. While the conceptual framework provides a practical representation of the research problem and expected relationships, the theoretical framework situates the study within a broader body of scholarly discourse.

In contemporary academic practice, the importance of theory is widely acknowledged across disciplines, leading to its deliberate incorporation into empirical research. It has become standard for studies to be anchored in one or more theoretical perspectives. While some research questions can be effectively addressed using a single theory, others particularly those involving complex or multi-layered issues benefit from the use of multiple theoretical lenses. This approach is commonly referred to as theoretical triangulation, a methodological strategy that allows researchers to examine a phenomenon from different analytical perspectives.

Ukwoma and Ngulube (2021) explain that theoretical triangulation involves the application of multiple theoretical frameworks within a single study in order to enhance the validity, reliability, and depth of analysis. This approach is particularly useful in the social sciences, where the complexity of human behaviour and institutional processes often cannot be fully explained through a single perspective. By combining different theoretical insights, researchers can achieve a more comprehensive understanding of the phenomenon under investigation, while also addressing the

limitations associated with individual theories. In addition, this approach helps to minimise potential biases, thereby strengthening the overall robustness of research findings.

Consistent with this methodological orientation, the present study adopts a triangulated theoretical approach by drawing on three complementary frameworks: Rational Choice Theory (RCT), Institutional Theory, and Constructivist Theory. Each of these perspectives contributes distinct assumptions, analytical tools, and interpretive insights that collectively enhance the conceptual foundation of the study.

Rational Choice Theory provides a framework for understanding state behaviour as a product of strategic decision-making based on cost-benefit calculations and rational self-interest. From this perspective, states choose whether to ratify human rights treaties by weighing potential advantages such as international legitimacy, financial assistance, or diplomatic benefits against possible costs, including reduced policy autonomy or increased external scrutiny.

Institutional Theory, by contrast, shifts attention from individual decision-making to the influence of institutional structures and norms. It argues that the behaviour of actors whether individuals, organisations, or states is shaped by formal rules, established procedures, and deeply embedded institutional practices. This perspective is particularly relevant for analysing the domestication and implementation of human rights treaties, as these processes depend heavily on the capacity, organisation, and functioning of national institutions.

Constructivist Theory adds a further dimension by emphasising the role of ideas, norms, and identities in shaping behaviour. Unlike Rational Choice Theory, which focuses on material incentives, and Institutional Theory, which highlights structural influences, Constructivism underscores the importance of social and ideational factors. It suggests that states may adopt and

comply with human rights treaties not only for strategic or institutional reasons, but also because such actions align with their identities and normative commitments as members of the international community. This perspective is particularly useful in explaining instances where states embrace treaties despite limited immediate benefits, driven instead by considerations of legitimacy and international recognition.

Taken together, these three theoretical perspectives provide a complementary analytical framework that strengthens the explanatory capacity of the study. Rational Choice Theory illuminates the strategic motivations underlying treaty ratification, Institutional Theory explains the structural and procedural dynamics of implementation, and Constructivist Theory sheds light on the normative and ideational influences shaping state behaviour. By integrating these perspectives, the study develops a more comprehensive understanding of the factors influencing Uganda's ratification and domestication of human rights treaties.

The following section presents a detailed examination of each of these theories, outlining their core assumptions, key concepts, and relevance to the study. This theoretical foundation will guide both the analysis of data and the interpretation of findings within the broader context of Uganda's legal and institutional framework.

### **2.2.1 Rational Choice Theory**

Rational Choice Theory (RCT) finds its intellectual origins in classical economic thought, most notably in the work of Adam Smith, whose seminal 1776 publication *An Inquiry into the Nature and Causes of the Wealth of Nations* laid the groundwork for understanding human behaviour as guided by rational calculation and the pursuit of individual benefit (Smith, 1776). Smith's contribution established the idea that actors make decisions by weighing available options

and selecting those that maximise their personal advantage. Over time, this foundational concept has been extended beyond economics into a wide range of disciplines, including sociology, political science, and international relations. As Opp (2021) explains, RCT assumes that individuals, and by extension collective actors such as institutions and states, engage in decision-making processes that involve evaluating the potential costs and benefits of different courses of action. The option ultimately chosen is the one expected to yield the greatest overall utility, thereby reflecting a rational pursuit of self-interest.

Within the context of international relations and treaty law, Rational Choice Theory provides a particularly useful lens for analysing how states behave when engaging with international legal regimes. Under this framework, the state is conceptualised as a unified and rational actor composed of decision-makers who operate in pursuit of national interests. When confronted with the decision of whether to ratify an international treaty, the state is expected to undertake a careful assessment of the potential advantages and disadvantages associated with entering into such an agreement (Lee, 2022). This assessment involves not only immediate gains but also long-term strategic considerations, including political, economic, and diplomatic implications. A state is therefore more likely to ratify a treaty where the perceived benefits outweigh the associated costs. Conversely, where the anticipated costs such as limitations on domestic autonomy, increased international oversight, or the financial burden of implementation are considered too high, the state may delay ratification or choose not to ratify altogether (Ainsworth, 2020; Fumagalli, 2020).

States pursue treaty ratification for a variety of both tangible and intangible reasons. On the one hand, ratification can yield concrete benefits such as improved access to international markets, eligibility for financial assistance, and enhanced cooperation with other states and

international organisations. On the other hand, it can also provide less tangible advantages, including increased international legitimacy, improved diplomatic standing, and the strengthening of a state's global reputation. Corwin (2023) highlights that adherence to international human rights treaties, in particular, can significantly enhance a country's credibility in the international arena, making it more attractive to foreign investors and development partners. In many cases, international financial institutions and donor agencies condition their support on a country's demonstrated commitment to human rights norms and legal obligations. As a result, treaty ratification often serves both normative and strategic purposes, aligning with broader national development goals while simultaneously reinforcing the state's international image.

Despite these potential benefits, the decision to ratify international treaties is not without its challenges and risks. Yunus, Sholeh, and Susilowati (2023) observe that treaty obligations frequently require states to adopt higher levels of transparency and accountability, which may expose governments to increased international scrutiny. This can be particularly problematic for states that prioritise sovereignty or operate within political systems that are not fully aligned with international human rights standards. Furthermore, the Law Reform Commission (2020) notes that some treaties necessitate extensive domestic legal and institutional reforms, which may be resource-intensive and politically sensitive. These reforms can include legislative amendments, institutional restructuring, and the allocation of financial resources, all of which may place additional pressure on the state. Consequently, states must carefully balance these potential costs against the expected benefits, reinforcing the central premise of Rational Choice Theory that decisions are made through a process of weighing advantages against disadvantages.

Empirical studies provide further support for the explanatory power of Rational Choice Theory in understanding state behaviour. For example, Tawana (2021) examined South Africa's

compliance with reporting obligations under key United Nations human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the International Covenant on Civil and Political Rights (ICCPR). The findings revealed a relatively high level of compliance, suggesting that adherence to these treaties aligned with South Africa's strategic interests, particularly in maintaining its reputation as a democratic and rights-respecting state within the international community. This example illustrates how states may comply with international obligations not solely out of legal duty, but because such compliance supports broader political and reputational objectives.

Similarly, Elsig and Spilker (2024) conducted a quantitative study examining how individuals respond to potential conflicts between international commitments, particularly in areas such as climate change and trade. Their findings indicated that individuals are highly sensitive to issues of non-compliance and international exposure, which in turn influence their support for domestic policy decisions. Interestingly, the study demonstrated that reputational concerns and alignment with international norms can, in some cases, outweigh direct material considerations. This suggests that while Rational Choice Theory emphasises cost-benefit calculations, these calculations may also incorporate non-material factors such as reputation and legitimacy, thereby broadening the scope of what constitutes "rational" decision-making.

Overall, Rational Choice Theory offers a robust and versatile framework for analysing the motivations underlying state behaviour in the international system. It provides valuable insights into why states choose to engage with, comply with, or withdraw from international legal commitments based on calculated assessments of their interests. Although the theory has been criticised for its limited ability to account for normative influences, identity, and deeply embedded

social values, it nevertheless remains a powerful tool for understanding patterns of treaty ratification, compliance, and international cooperation. By highlighting the role of strategic decision-making, Rational Choice Theory contributes significantly to the broader analysis of how states navigate the complex landscape of international law and human rights obligations.

### **2.2.2 Institutional Theory**

Institutional Theory provides a comprehensive analytical framework for examining how organisations and states operate within broader social, political, and legal environments. Rather than focusing solely on efficiency or performance outcomes, this theoretical approach emphasises the importance of institutional structures, norms, and expectations in shaping behaviour. A major development in this field is attributed to DiMaggio and Powell's influential 1983 work, which redirected attention from purely efficiency-driven explanations of organisational behaviour to the pursuit of legitimacy as a central concern. According to this perspective, organisations do not necessarily survive or succeed because they are the most innovative or efficient; instead, their longevity is often linked to their ability to conform to accepted rules, norms, and practices within their institutional environment. Such conformity enhances legitimacy, which in turn increases the likelihood of organisational stability and continued existence (DiMaggio & Powell, 1983; Kauppi, 2022).

A key issue explored by DiMaggio and Powell is the tendency for organisations operating within the same sector to become increasingly similar over time. This phenomenon is explained through the concept of institutional isomorphism, which describes the process through which organisations adopt comparable structures, practices, and behaviours due to shared pressures within their environment. These pressures are typically categorised into three forms: coercive, mimetic, and normative. Coercive pressures arise from formal requirements such as laws,

regulations, and directives imposed by authoritative bodies, compelling organisations to comply with specific standards. Mimetic pressures occur in situations of uncertainty, where organisations imitate others perceived to be more successful or legitimate as a way of reducing risk. Normative pressures, on the other hand, stem from shared professional values, educational backgrounds, and industry norms that influence how organisations operate (Kauppi, 2022). Together, these forms of pressure drive convergence among organisations, reinforcing legitimacy in the eyes of stakeholders such as governments, regulators, and the public.

While Institutional Theory has traditionally been applied to the study of corporate organisations, its relevance extends significantly to the analysis of state behaviour, particularly within the domains of international law and human rights. Institutions, as described by Eitrem, Meidell, and Modell (2024), consist of established systems of rules, norms, and shared beliefs that shape both organisational practices and broader societal interactions. These institutional arrangements influence not only how organisations are structured internally but also how they interact with external actors. In this regard, Institutional Theory provides a useful lens for understanding how states respond to evolving political, legal, and social contexts, including the emergence of new international norms and the influence of global actors.

Expanding on this perspective, Roszkowska-Menkes (2023) highlights how institutional structures and routines acquire legitimacy over time and become deeply embedded within both organisations and societies. In the context of international relations, this includes the influence of widely accepted legal and ethical frameworks, such as those governing human rights, on the behaviour of states. Governments operate within a broader institutional environment shaped by international organisations, civil society groups, and other states, all of which exert varying degrees of normative and reputational pressure. These pressures can encourage states to align their

policies and practices with internationally accepted standards, even in the absence of direct enforcement mechanisms.

Institutional Theory is particularly useful in explaining state behaviour in relation to international human rights treaties. It helps clarify why states choose either to ratify such treaties or to refrain from doing so. Ayeni (2019) emphasises the role of global institutions, including the United Nations and its treaty-monitoring bodies, in shaping state conduct by establishing normative expectations and providing incentives for compliance. Participation in these institutions can offer significant advantages, such as enhanced international reputation, access to development assistance, and opportunities for diplomatic engagement. As a result, states may be motivated to ratify and domesticate human rights treaties in order to align with these institutional expectations. Conversely, failure to engage with such frameworks or reluctance to implement treaty obligations may signal a lack of commitment to internationally recognised standards and potentially damage a state's credibility on the global stage.

In addition to explaining state behaviour, Institutional Theory offers valuable insights for policymakers, researchers, and advocates seeking to promote the effective implementation of international legal commitments. By recognising the influence of legitimacy, professional norms, and institutional expectations, stakeholders can design more effective strategies to encourage compliance. These strategies may include providing technical support for legal reforms, emphasising the reputational benefits of adherence to international standards, and framing human rights obligations in ways that resonate with domestic values and policy priorities (Roszkowska-Menkes, 2023; Ayeni, 2019). Such approaches recognise that compliance is not driven solely by legal obligation but also by the desire to maintain legitimacy within the international community.

The relevance of Institutional Theory extends beyond the field of human rights law to broader global challenges. Recent studies have applied the theory to issues such as public administration, economic governance, and responses to global crises. For instance, Silva, Macedo, and Thompson (2024) examine how institutional arrangements influence policy responses to complex challenges such as climate change and socio-economic inequality. Drawing on the work of institutional economists like Douglass North and Ha-Joon Chang, their analysis highlights the importance of adaptable and resilient institutions in addressing long-term global issues. They argue that effective governance depends on understanding how institutional structures both enable and constrain policy choices, particularly in rapidly changing environments.

In conclusion, Institutional Theory offers a powerful framework for understanding how both organisations and states adapt to and are shaped by their institutional environments. By emphasising the roles of legitimacy, conformity, and institutional stability, the theory provides valuable insights into the processes that drive behavioural convergence and organisational change. Its applicability across multiple domains including international law, governance, and public administration underscores its versatility as an analytical tool. Within the context of this study, Institutional Theory is particularly useful for explaining how states engage with international human rights norms and how institutional pressures influence decisions related to treaty ratification and domestication.

### **2.2.3 Constructivism**

Constructivist Theory offers a distinctive and highly influential perspective for analysing international relations and international law by emphasising the role of social constructs such as norms, identities, and shared beliefs in shaping the behaviour of states and other global actors. Unlike Rational Choice Theory, which prioritises material self-interest and cost-benefit

calculations, or Realist approaches that interpret the international system as inherently anarchic and driven by power struggles, Constructivism argues that the international system is not fixed or predetermined. Instead, it is continuously shaped and reshaped through interactions among actors and the meanings they attach to those interactions (Wendt, 1992). Through these processes, not only is the structure of the international system constructed, but state identities and interests are also redefined over time.

At its core, Constructivism asserts that state behaviour is strongly influenced by ideational factors, particularly norms and identities, which are both produced by and reproduced through social interaction. These elements do not simply reflect pre-existing interests; rather, they actively shape and constitute them (Hopf, 1998). This perspective challenges the assumptions of materialist theories by suggesting that understanding state preferences requires attention to the social and normative environment within which states operate. In this regard, Constructivism broadens the analytical scope of international relations by incorporating factors such as beliefs, values, and shared understandings into explanations of state conduct.

A key contribution of Constructivist Theory to international law lies in its focus on how norms are created, internalised, and embedded within both domestic and international systems. From this perspective, the legitimacy of norms does not depend solely on formal enforcement mechanisms, but rather on their perceived appropriateness and their compatibility with existing identities and societal values (Checkel, 1998). The process through which norms become accepted is often described as socialisation, whereby states learn and adopt expected patterns of behaviour through repeated interaction, dialogue, and participation in international institutions (Finnemore & Sikkink, 1998). Consequently, the spread of norms is viewed as a gradual and socially driven process shaped by shared meanings rather than purely strategic calculations.

An important concept within Constructivist analysis is the “logic of appropriateness,” which contrasts with the “logic of consequences” associated with Rational Choice Theory (March & Olsen, 1998). Under this framework, states act in ways that are considered socially acceptable and consistent with prevailing norms within their international or regional communities. Compliance with international treaties, including those related to human rights, is therefore not driven exclusively by fear of sanctions or pursuit of material gain. Instead, it reflects a desire to align with shared expectations and maintain a positive identity within the international system. This helps explain why some states adhere to treaties even in situations where enforcement mechanisms are weak, as their actions are guided by considerations of legitimacy and recognition (Risse & Sikkink, 1999).

Central to Constructivist Theory is the understanding that state identities are neither fixed nor inherent. Rather, they are continuously shaped and reshaped through historical experiences, cultural narratives, political ideologies, and institutional contexts (Katzenstein, 1996). For example, a state that perceives itself as a promoter of democracy and human rights is more likely to engage actively with international human rights instruments, viewing such engagement as consistent with its identity. Conversely, states that prioritise sovereignty or maintain resistance to external influence may be less inclined to adopt international norms unless those norms are adapted to fit domestic values and narratives (Acharya, 2004). This highlights the importance of identity in shaping how states interpret and respond to international obligations.

Empirical studies have provided support for the explanatory power of Constructivist Theory. For instance, Erbaş (2022) explored how shared norms and ideas influence national identity formation and foreign policy decisions, demonstrating that processes of socialisation and norm internalisation play a significant role in shaping state behaviour within the international

system. Similarly, Marino and Lulushca (2024) applied a Constructivist lens to examine relations between China and Latin American countries, finding that cultural perceptions, identity formation, and shared ideas often exert greater influence on cooperation than purely material considerations. These findings reinforce the argument that ideational factors are critical in understanding international interactions.

Within the field of international human rights law, Constructivism provides a particularly valuable framework for explaining differences in treaty ratification, implementation, and domestication across states. It emphasises that successful compliance depends on the extent to which international norms resonate with domestic values, institutions, and socio-political contexts. Norms that align with existing narratives and identities are more likely to be accepted, internalised, and effectively implemented (Sandholtz, 2008). This perspective suggests that actors such as civil society organisations, international institutions, and advocacy networks must engage in processes of persuasion, adaptation, and localisation to ensure that human rights norms are perceived as legitimate and relevant within specific national contexts (Acharya, 2004).

Constructivist insights are especially important in analysing the experiences of countries in the Global South, including Uganda, in relation to international human rights instruments. The theory highlights that treaty ratification should not be viewed merely as a formal legal act, but as part of a broader process of normative transformation within society. For international norms to be effectively implemented, they must be interpreted and adapted in ways that align with national identity, cultural values, and institutional realities. This often involves processes of reinterpretation and norm translation, through which global standards are integrated into local contexts in a meaningful way.

In conclusion, Constructivist Theory enhances the understanding of international law and global governance by drawing attention to the social and normative dimensions of state behaviour. By moving beyond purely material explanations, it underscores the importance of norms, identities, and shared understandings in shaping international outcomes. Through its focus on processes such as socialisation, norm internalisation, and identity construction, Constructivism provides a comprehensive framework for analysing treaty ratification and compliance, particularly in the field of human rights. Its contributions are valuable not only for academic analysis but also for informing policy and advocacy strategies aimed at strengthening adherence to international legal standards.

#### **2.2.4 Assessment of the Different Theoretical Controversies**

Although Rational Choice Theory (RCT), Institutional Theory, and Constructivist Theory provide influential and widely applied frameworks for analysing state behaviour particularly in relation to the ratification and domestication of human rights treaties each of these perspectives has been subject to substantial critique. These criticisms highlight important limitations in their assumptions, analytical scope, and applicability to real-world contexts. As a result, a more critical and nuanced engagement with these theories is necessary in order to fully appreciate both their contributions and their shortcomings within international legal scholarship.

Rational Choice Theory, which is grounded in the assumption that actors including states make decisions by weighing costs and benefits in order to maximise utility, has attracted considerable criticism. One major concern relates to its conceptual ambiguity and broad application. The term “rational choice” is often used to describe a wide range of approaches that are not always clearly defined, leading to a lack of analytical precision (Herfeld, 2022). This lack of clarity weakens the theory’s explanatory power, particularly when applied to complex and

sometimes inconsistent patterns of state behaviour. Additionally, critics argue that RCT is not entirely neutral, as it tends to reflect Western-centric assumptions about rationality, individualism, and economic calculation. In doing so, it may overlook cultural, social, and contextual differences that influence how decisions are made in diverse settings (Krstić, 2022).

The limitations of Rational Choice Theory become even more apparent in the field of international relations. Scholars have pointed out that the theory often prioritises micro-level analysis focused on individual or state decision-making while neglecting broader structural and systemic factors that shape global interactions (Krstić, 2023). This narrow focus can be particularly problematic when analysing issues such as human rights, where ethical considerations, historical experiences, and institutional contexts play a significant role. Moreover, RCT has been criticised for its limited ability to explain behaviour that does not conform to strict utility maximisation, including actions driven by moral commitments, ideological beliefs, or altruistic motivations. While some scholars acknowledge these weaknesses, they suggest that the theory can be improved by incorporating more empirically grounded and behaviourally informed assumptions (Fumagalli, 2020; Davis, 2023). Such adaptations indicate that although RCT remains a useful analytical tool, its application must be carefully contextualised, especially in areas involving normative international obligations.

Institutional Theory, which focuses on the role of rules, norms, and shared practices in shaping organisational and state behaviour, has also faced significant criticism. One key concern is its perceived lack of critical depth. Munir (2020) argues that the theory often places greater emphasis on agency while insufficiently addressing underlying structural inequalities and power dynamics. As a result, it may fail to adequately interrogate hegemonic systems and entrenched forms of domination. By concentrating on observable institutional practices at a micro level, the

theory can unintentionally reinforce existing power structures without questioning their legitimacy. Similarly, Herman and Inna (2020) contend that Institutional Theory lacks a strong emancipatory dimension, as it tends to prioritise conformity to established norms rather than critically assessing whether those norms are just or equitable.

Another critique relates to the theoretical sophistication of Institutional Theory. According to Eitrem, Meidell, and Modell (2024), the framework sometimes lacks sufficient conceptual depth to support rigorous critical analysis. While it effectively explains patterns of convergence and organisational similarity, it may be less capable of addressing deeper questions concerning inequality, resistance, and transformation. Some scholars, however, argue that the theory implicitly challenges purely functionalist approaches that prioritise efficiency and managerial interests (Lok, 2019; Drori, 2020). Despite these differing perspectives, there remains no clear consensus on the extent to which Institutional Theory can adequately account for power asymmetries and structural constraints. This suggests that while the theory offers valuable insights into institutional behaviour, it may need to be complemented by other critical approaches to achieve a more comprehensive analysis.

Constructivist Theory, the third framework considered in this study, shifts the analytical focus to the social construction of norms, identities, and interests. It emphasises that these elements are dynamic and continuously shaped through interaction. Although Constructivism has made significant contributions to understanding international law and human rights practices, it has also been subject to critique. Kamal (2020) notes that the theory often relies heavily on normative arguments, which may limit its empirical robustness and raise questions about the objectivity of its claims. The emphasis on intersubjective meanings can also make it difficult to operationalise

the theory in empirical research, particularly in studies that require measurable variables and clear causal relationships.

In addition, Constructivism has been criticised for overlooking certain dimensions of power, particularly those related to gender and material inequality. Scholars such as Peltonen (2022) and Allen (2022) argue that the theory's focus on shared meanings and identities can obscure structural inequalities and reinforce partial or incomplete narratives. Without a more explicit engagement with these dimensions, Constructivist analysis may fail to capture the full complexity of international relations and state behaviour. These critiques suggest that while Constructivism provides valuable insights into the role of norms and identities, it must be applied with careful attention to its limitations.

Despite these criticisms, it is important to recognise that Rational Choice Theory, Institutional Theory, and Constructivism each offer meaningful contributions to the study of international relations and international law. Each framework highlights different dimensions of state behaviour: RCT emphasises strategic decision-making and utility maximisation; Institutional Theory focuses on the influence of norms, rules, and organisational structures; and Constructivism draws attention to the role of identities, beliefs, and social interaction. Taken individually, each theory provides only a partial explanation. However, when considered together, they offer a more comprehensive and nuanced understanding of the factors that shape state behaviour.

The critical evaluation of these theoretical perspectives therefore underscores the importance of adopting a pluralistic approach. By integrating insights from multiple frameworks, researchers can better account for the complex and multifaceted nature of state compliance with international human rights treaties, particularly in relation to processes of ratification and

domestication. Continued refinement of these theories, informed by both empirical research and critical scholarship, remains essential for advancing academic discourse and informing policy development in international law and global governance.

## **2.3 Human Rights Treaties and Ratification and Domestication**

This section examines human rights treaties, with a specific focus on their ratification and domestication by State parties. It starts by discussing the key debates surrounding this topic, then analyses the international law principle known as *Pacta Sunt Servanda*, highlighting its significance. Finally, it reviews the existing literature on a state's capacity to enter into treaties.

### **2.3.1 Debates About the Effectiveness of International Instruments**

The extent to which international human rights instruments achieve their intended objectives continues to generate considerable debate among scholars, legal practitioners, and policymakers. Although there has been a significant increase in both the number and scope of these instruments since the mid-twentieth century, doubts persist regarding their actual effectiveness, particularly in contexts marked by authoritarian governance, weak institutions, and ongoing socio-political instability (Hafner-Burton & Tsutsui, 2005). Critics frequently argue that states often ratify human rights treaties to enhance their international reputation or legitimacy while failing to implement the obligations domestically. This discrepancy has drawn attention to the persistent gap between the formal adoption of norms and their practical realization. Despite these concerns, international human rights law has continued to evolve, shaped by both normative commitments and pragmatic responses to global injustices. Its modern development can be traced back to the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, a non-binding yet highly influential document that established the moral and philosophical foundation of the contemporary human rights system (Glendon, 2001). Although it did not impose legal obligations, the UDHR

introduced a shared language of dignity and fundamental freedoms that later informed the development of binding international standards.

Building on this foundation, the UDHR paved the way for the creation of legally binding human rights treaties. In 1966, the United Nations adopted two landmark instruments: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Together with the UDHR, these instruments form what is commonly referred to as the “International Bill of Human Rights” (UN General Assembly, 1966a, 1966b). The ICCPR focuses on the protection of civil and political freedoms, including rights such as freedom of expression, fair trial, and protection from arbitrary detention. In contrast, the ICESCR addresses economic, social, and cultural rights, including access to education, healthcare, and decent working conditions. Both covenants are legally binding on states that ratify them and are supported by monitoring bodies, such as the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, which oversee implementation and provide interpretive guidance (Alston & Goodman, 2013). The adoption of these treaties marked a transition from aspirational declarations to enforceable legal frameworks, providing mechanisms through which states could be held accountable. However, enforcement remains largely dependent on state cooperation and political will, which varies significantly across different national contexts.

In subsequent decades, the international human rights regime expanded further through the adoption of specialised treaties aimed at addressing specific forms of discrimination and abuse or protecting vulnerable groups. For instance, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) represents a significant advancement in efforts to promote gender equality and eliminate systemic discrimination against women (Byrnes & Freeman, 2011). Its provisions cover a wide range of issues, including education, employment,

political participation, and reproductive rights, and its implementation is monitored by the CEDAW Committee. Similarly, the Convention Against Torture (CAT, 1984) established a comprehensive framework prohibiting torture under all circumstances and obligating states to prevent, investigate, and punish such acts (Nowak & McArthur, 2008). Notably, it introduced the principle of universal jurisdiction, requiring states to prosecute perpetrators regardless of where the offence occurred. More recently, the International Convention for the Protection of All Persons from Enforced Disappearance (CPED, 2006) was developed in response to increasing concerns about enforced disappearances, particularly in politically repressive or conflict-affected environments (Scovazzi & Citroni, 2007). Taken together, these instruments demonstrate the progressive development of the international human rights framework, although their effectiveness remains closely tied to domestic implementation and international oversight.

Collectively, international human rights treaties constitute a complex and multilayered legal framework aimed at safeguarding human dignity and promoting fundamental freedoms. These instruments are not merely symbolic; rather, they reflect a shared commitment among states to uphold universal principles of justice, equality, and human rights (Simmons, 2009). They establish normative standards that transcend national boundaries and provide a common reference point for global human rights discourse. Moreover, these treaties have influenced the development of customary international law and have shaped national constitutions and legal systems in many countries, thereby extending their impact beyond formal ratification. Their existence also generates normative pressure on both state and non-state actors to comply with internationally recognised standards of conduct.

However, the practical impact of these instruments varies significantly across different contexts and is influenced by a range of domestic and international factors. The effectiveness of

implementation often depends on the strength of legal and political institutions, the independence of the judiciary, the role of civil society, and the degree of political commitment to human rights (Landman, 2005). In countries with strong democratic institutions and effective governance structures, international human rights obligations are more likely to be incorporated into domestic law and enforced through judicial mechanisms. In contrast, in states characterised by weak rule of law or authoritarian governance, such obligations may remain largely aspirational, with limited practical impact. Additionally, states may enter reservations or issue interpretive declarations when ratifying treaties, thereby limiting the scope of their commitments. In such situations, external actors including treaty-monitoring bodies, non-governmental organisations, and international advocacy networks play a critical role in highlighting violations, promoting accountability, and encouraging compliance.

Notwithstanding the limitations identified, international human rights instruments continue to hold substantial normative and strategic significance. They function as important reference points for a wide range of actors, including civil society organisations, legal practitioners, and individuals seeking remedies for human rights violations at both domestic and international levels. Through mechanisms such as periodic state reporting, general comments, and recommendations issued by treaty-monitoring bodies, these instruments contribute to the development of accountability frameworks that can shape national discourse and inform legal and policy reforms over time. In addition, they provide a platform through which transnational advocacy networks and social movements can situate local grievances within a broader global human rights narrative, thereby mobilising international attention, solidarity, and support (Simmons, 2009). Consequently, although the effectiveness of these instruments may vary depending on contextual factors, their broader role in influencing global human rights standards, shaping public policy, and guiding legal

practice remains highly significant. They therefore constitute essential tools for analysing and advancing human rights protection, advocacy, and reform across both domestic and international contexts.

At the regional level, the African human rights system has developed into a critical framework for the promotion and protection of human rights across the continent. A central component of this system is the African Charter on Human and Peoples' Rights (ACHPR), often referred to as the Banjul Charter, which was adopted by the Organization of African Unity (OAU) in 1981 and came into force in 1986. The Charter represents a foundational legal instrument that reflects Africa's collective commitment to human rights, while also incorporating the continent's unique historical experiences, cultural values, and philosophical perspectives (Viljoen, 2012). Unlike many international human rights instruments that distinguish between categories of rights, the ACHPR adopts an integrated approach by recognising civil, political, economic, social, cultural, and "peoples' rights" within a single framework. This holistic orientation reflects a communitarian understanding of human rights, where individual dignity is closely connected to the welfare of the broader community. As such, the Charter not only recognises individual rights but also emphasises corresponding duties owed to the family, society, and the state.

An important institutional mechanism within this system is the African Commission on Human and Peoples' Rights, which was established under the Charter and became operational in 1987. The Commission is mandated to promote and protect human rights, interpret the provisions of the Charter, and monitor state compliance through various mechanisms, including state reporting, communications procedures, and promotional missions (Dugard & Killander, 2013). Although the Commission does not possess direct enforcement powers comparable to those of a judicial body, its interpretive authority and engagement with both state and non-state actors have

enabled it to exert meaningful influence on human rights practices within the region. Over time, it has developed a body of jurisprudence through decisions on individual complaints and thematic resolutions. However, its effectiveness has often been constrained by challenges such as limited resources, lack of binding authority, and instances of non-compliance by member states. Despite these limitations, the Commission has played a significant role in advancing normative development, including the formulation of influential soft-law instruments such as the Robben Island Guidelines on the prevention of torture and the Guidelines on Freedom of Association and Assembly in Africa.

Since the adoption of the Charter, the African human rights system has undergone considerable expansion, with the introduction of additional institutions and legal instruments aimed at strengthening the protection of rights. A notable development in this regard is the establishment of the African Court on Human and Peoples' Rights, created through a 1998 Protocol to the Charter and operational since 2006. Unlike the Commission, the Court has the authority to issue binding judgments, thereby providing a more robust mechanism for addressing human rights violations. However, access to the Court remains limited, as many states have not made the necessary declarations allowing individuals and non-governmental organisations to bring cases directly before it (Viljoen, 2012). Another important instrument is the Protocol on the Rights of Women in Africa, commonly known as the Maputo Protocol, adopted in 2003. This protocol addresses longstanding issues of gender inequality by providing comprehensive protections, including rights related to reproductive health, protection from gender-based violence, and the elimination of harmful cultural practices. Together, these developments reflect the increasing sophistication and institutional maturity of the African human rights system, even as it continues

to face challenges related to implementation, political resistance, and the balance between state sovereignty and accountability.

Beyond continental mechanisms, sub-regional organisations have also contributed to the development of human rights protection in Africa. The East African Community (EAC), for example, incorporates explicit commitments to human rights, democracy, the rule of law, and good governance within its founding Treaty of 1999 (East African Community, 1999). These commitments provide a normative foundation for regional cooperation and create avenues for strengthening legal and institutional frameworks in line with international standards. In addition, sub-regional judicial bodies such as the East African Court of Justice (EACJ) have increasingly engaged with human rights issues, thereby expanding the scope of regional accountability. Scholars have noted that such regional integration processes facilitate the diffusion of human rights norms and exert additional pressure on member states to align with accepted standards (Mbazira, 2013; Nmehielle, 2001). Nevertheless, these systems continue to face significant challenges, including limited enforcement capacity, political interference, and resource constraints, which may hinder their effectiveness in ensuring full protection of human rights at the national level (Murray, 2004).

The effectiveness of international treaties, particularly those relating to human rights, continues to be the subject of sustained academic and policy debate. The notion of “treaty effectiveness” is not uniformly defined and can be approached from multiple theoretical and methodological perspectives, including legal positivist, constructivist, and institutionalist frameworks. While some scholars assess effectiveness primarily in terms of ratification rates and formal state commitment, others place greater emphasis on actual behavioural change, policy implementation, and measurable improvements in human rights outcomes (Simmons, 2009;

Hathaway, 2002). In this study, treaty effectiveness is understood as “the ability of a treaty to achieve the goals outlined in its purpose and object, as established by the parties” (McInerney, 2021, p. 4). This conceptualisation captures both the formal and substantive dimensions of treaty performance, recognising that effectiveness involves not only legal commitment but also the practical realisation of rights through domestic institutions and enforcement mechanisms.

In the African context, assessing treaty effectiveness requires a multidimensional perspective. Although ratification of international human rights instruments may indicate a state’s formal commitment to global norms, the extent to which these commitments translate into meaningful outcomes depends on several interrelated factors. These include political will, institutional capacity, the strength and independence of the judiciary, and the level of engagement by civil society (Heyns & Killander, 2010). For example, states may ratify key regional instruments such as the African Charter on Human and Peoples’ Rights (ACHPR) or the Maputo Protocol without fully aligning their domestic laws or administrative practices with the obligations contained in those treaties. This disconnect highlights the persistent gap between formal commitment and effective implementation. Consequently, regional bodies and treaty-monitoring mechanisms play a crucial role in bridging this gap by providing oversight, clarifying normative standards, and supporting capacity-building initiatives. Through these processes, the aspirational objectives of human rights treaties can gradually be translated into tangible protections for individuals (Murray, 2004; Odinkalu, 2003). These realities underscore the importance of not only ratifying treaties but also ensuring their meaningful domestication and operationalisation within national legal and institutional frameworks.

Recent scholarly developments have expanded the analysis of treaty effectiveness by shifting attention to the stages preceding ratification, particularly the processes of negotiation and

drafting. While earlier approaches focused largely on compliance and enforcement after treaties enter into force, emerging literature suggests that many determinants of effectiveness are embedded in the initial design phase (Yu, 2022). The negotiation stage provides a critical opportunity for shaping both the substantive content and procedural architecture of treaties in ways that influence their future implementation. In this sense, negotiations are not merely political exercises but foundational processes through which normative aspirations are balanced against the strategic interests of both state and non-state actors. Decisions made during this phase including those relating to definitions, scope of obligations, exceptions, and institutional arrangements can significantly affect a treaty's legitimacy, acceptability, and overall impact.

Yu (2022) argues that inclusive and transparent negotiation processes enhance the likelihood that treaties will be widely ratified and effectively implemented. Inclusivity in this context extends beyond state participation to encompass the meaningful involvement of international organisations, civil society actors, technical experts, and marginalised groups. When a diverse range of stakeholders contributes to treaty development, the resulting instrument is more likely to strike a balance between normative ambition and practical feasibility. This, in turn, strengthens the legitimacy of the treaty and fosters a sense of shared ownership among participating actors. Such ownership is critical for ensuring sustained political commitment and effective domestic incorporation. Notably, the participation of civil society has been shown to contribute to the inclusion of stronger human rights safeguards and more robust monitoring provisions. Conversely, treaties negotiated in closed or exclusionary settings particularly those dominated by powerful states may encounter challenges related to legitimacy and weak implementation after ratification (Yu, 2022).

This evolving focus on treaty design and stakeholder alignment has important implications for both international law and policy practice. By recognising the significance of negotiation dynamics, scholars and practitioners are better equipped to explain why certain treaties achieve their objectives while others fall short. As Yu (2022) observes, effective treaty design requires more than technical legal expertise; it also demands sensitivity to political realities, institutional foresight, and the ability to reconcile diverse and sometimes competing interests. From this perspective, treaty effectiveness is shaped not only by the legal form of the agreement but also by the political and institutional context in which it is created. Treaties that emerge from inclusive, deliberative, and strategically aligned processes are more likely to secure long-term commitment and deliver meaningful outcomes.

In addition to stakeholder engagement, the institutional design embedded within treaties plays a crucial role in determining their long-term effectiveness. Although ratification is often viewed as the primary indicator of commitment, the structural features incorporated into the treaty text prior to ratification significantly influence how obligations are interpreted, implemented, and enforced. Chayes and Chayes (1995) argue that many challenges associated with treaty compliance can be traced back to deficiencies in design, such as vague provisions, lack of clarity, or absence of credible incentives. Clearly articulated objectives, precise definitions, and well-defined responsibilities help to minimise ambiguity and reduce opportunities for states to avoid or weaken their commitments. In contrast, overly flexible or imprecise provisions may allow for discretionary interpretation, thereby undermining accountability and collective objectives.

An essential component of effective institutional design is the inclusion of robust monitoring and reporting mechanisms. These mechanisms enhance transparency, facilitate performance evaluation, and create opportunities for corrective action. According to Guzman

(2008), treaties that incorporate features such as independent oversight bodies, periodic reporting requirements, and peer review processes are more likely to sustain compliance over time. Such mechanisms help bridge the gap between legal obligations and actual state behaviour by increasing the visibility of non-compliance and, in some cases, raising the political or reputational costs associated with it. Moreover, by embedding accountability structures within the treaty from the outset, negotiators can reduce reliance on external enforcement and contribute to the development of self-reinforcing compliance systems. This is particularly important in areas such as human rights and environmental protection, where domestic interests may conflict with international commitments and where sustained oversight is necessary to ensure meaningful implementation.

The effectiveness of institutional design is closely tied to its compatibility with the political, legal, and administrative contexts of the state's responsible for implementing treaty obligations. Where treaty provisions fail to reflect domestic legal traditions, governance structures, or political incentives, they are less likely to be effectively internalised, regardless of formal ratification (Chayes & Chayes, 1995). For this reason, treaty negotiators often seek to align provisions with existing regional norms and institutional capacities, ensuring that obligations are not only normatively sound but also practically achievable. Such alignment enhances the likelihood that treaties will be incorporated into national legal systems and fosters a sense of ownership among domestic actors. Consequently, contemporary scholarship increasingly conceptualises treaty effectiveness as dependent not only on enforcement mechanisms but also on the degree of foresight and adaptability embedded in treaty design prior to ratification (Guzman, 2008). By addressing potential implementation challenges at an early stage, the international community can reduce future obstacles and promote more consistent and sustained compliance.

Building on these insights, Khan, Usman, and Amjad (2023) propose a comprehensive framework for evaluating the operational effectiveness of international legal instruments. Recognising that treaty performance cannot be adequately assessed through ratification or formal compliance alone, their model adopts a multidimensional approach that examines how treaties function in practice. It incorporates specific indicators, performance benchmarks, and feedback mechanisms designed to capture both qualitative and quantitative dimensions of treaty implementation. This framework enables a more dynamic assessment of treaty impact by identifying not only whether obligations are being fulfilled but also the structural, political, and institutional factors that may facilitate or hinder progress. In doing so, it shifts the focus from static evaluation to an ongoing process of monitoring, learning, and adaptation. Such an approach is particularly relevant in addressing complex global issues such as human rights, climate change, and public health, where effectiveness must be assessed across multiple levels of governance and over extended periods.

A key feature of the framework developed by Khan et al. (2023) is its emphasis on the use of indicators to generate empirical insights into state behaviour. These indicators, which may be derived from administrative data, expert assessments, or stakeholder surveys, provide a basis for both quantitative measurement and qualitative analysis of compliance. For instance, in the context of human rights treaties, effectiveness may be evaluated through indicators such as legislative reforms, institutional strengthening, frequency of violations, or accessibility of justice mechanisms. The use of such data allows for comparative analysis across jurisdictions, enabling researchers and policymakers to identify patterns, best practices, and areas requiring intervention. Complementing these indicators are performance benchmarks, which establish clear standards against which progress can be assessed. By grounding evaluation in predefined criteria, these

benchmarks enhance objectivity and reduce the risk of politicised or inconsistent assessments (Khan et al., 2023).

Equally significant within this framework is the role of feedback mechanisms, which are integral to sustaining treaty effectiveness over time. These mechanisms facilitate interaction among treaty bodies, state institutions, and civil society actors, allowing for the identification of emerging challenges and the incorporation of lessons learned into policy and practice. By recognising treaty implementation as a dynamic and evolving process, Khan et al. (2023) highlight the importance of adaptability in responding to shifting political, legal, and social conditions. Rather than assuming uniform or linear progress, their approach acknowledges variability in implementation and emphasises the need for continuous adjustment. This perspective aligns with broader developments in global governance that prioritise iterative policy-making and collaborative problem-solving. In this sense, effective international law is understood not merely as a system of enforcement, but as a flexible and responsive framework capable of evolving in line with real-world conditions.

This integrated perspective combining attention to negotiation processes, institutional design, and ongoing evaluation offers important insights for the African human rights context. While regional instruments such as the African Charter and related mechanisms have established a strong normative foundation, challenges related to implementation and compliance persist. The application of evaluative frameworks such as that proposed by Khan et al. (2023) could enhance the capacity of regional institutions, including the African Commission and the African Court, to monitor performance in a more systematic and evidence-based manner. Additionally, strengthening inclusivity in treaty-making processes and ensuring that institutional arrangements

remain adaptable will be essential for improving the legitimacy, relevance, and enforceability of human rights norms within the region.

In contrast to these normative and design-oriented approaches, empirical scholars in international human rights law place greater emphasis on observable outcomes as indicators of treaty effectiveness. Rather than focusing primarily on legal texts or institutional frameworks, this perspective seeks to determine whether treaty ratification leads to tangible changes in state behaviour. Central to this approach is the examination of causal relationships between international commitments and subsequent legal, policy, or social developments within states. Researchers employ a range of methodologies, including cross-national statistical analysis, longitudinal studies, and detailed case studies, to assess whether treaty engagement produces measurable improvements in human rights practices. By isolating variables and accounting for contextual influences, empirical studies aim to determine whether treaties result in substantive change or function largely as symbolic commitments with limited practical impact (Hoffman, 2022).

A prominent contribution to this line of inquiry is made by Hoffman (2022), who contends that the true measure of an international treaty's success lies in its ability to generate lasting reforms within domestic legal systems and broader societal structures. From this perspective, the effectiveness of treaties cannot be assessed solely on the basis of their textual sophistication or the complexity of their institutional arrangements. Rather, emphasis must be placed on their tangible and transformative outcomes. This includes evaluating whether states introduce new legislation or revise existing laws to align with treaty obligations, and whether such legal reforms lead to measurable improvements in areas such as judicial independence, protection of minority rights, gender equality, and the reduction of human rights violations. Hoffman's approach therefore shifts the focus from formal adherence to substantive compliance, urging scholars and policymakers to

examine not only whether commitments are formally adopted, but whether they are effectively implemented and enforced in practice.

This empirical perspective raises important and sometimes uncomfortable questions regarding the persistent gap between formal commitment and actual compliance in international law. In many instances, states ratify human rights treaties primarily to enhance their international standing or align themselves diplomatically, rather than with a genuine intention to implement the associated obligations domestically. As a result, treaties may function as symbolic or aspirational instruments, contributing to the development of international norms while failing to produce meaningful change at the national level. Hoffman (2022) challenges the international legal community to confront this discrepancy by prioritising evidence of real-world impact over rhetorical or procedural achievements. In doing so, empirical approaches provide a necessary counterbalance to overly idealistic or formalist interpretations of treaty effectiveness. They highlight the need for incorporating rigorous impact evaluation into monitoring frameworks and call for greater levels of transparency, accountability, and methodological precision in assessing treaty outcomes.

Empirical research on the effectiveness of human rights treaties has produced mixed findings. Some studies identify a positive association between treaty ratification and improvements in human rights conditions, while others suggest that the relationship is more complex and context-dependent (Hafner-Burton & Tsutsui, 2005; Hill, 2010). In particular, evidence indicates that in authoritarian or semi-authoritarian settings, states may ratify treaties strategically to enhance international legitimacy without undertaking meaningful domestic reforms. In such contexts, treaties may operate more as symbolic instruments or forms of “window dressing” rather than as drivers of legal or behavioural change (Neumayer, 2005). Consequently, while treaties provide an

important normative framework and language for human rights discourse, their actual effectiveness is significantly influenced by domestic factors such as political commitment, institutional strength, and the level of engagement by civil society.

Scholars have also highlighted the importance of enabling conditions in determining whether treaty obligations translate into meaningful outcomes. Landman (2005) argues that factors such as a strong and active civil society, an independent judiciary, and a free and pluralistic media environment play a critical role in facilitating the enforcement and monitoring of human rights commitments. In the absence of these conditions, even well-designed treaties may remain underutilised or fail to achieve their intended impact. This underscores the need for a contextualised approach to evaluating treaty effectiveness, one that takes into account both international pressures and domestic constraints. Furthermore, longitudinal and cross-national studies have become increasingly valuable in analysing how treaty ratification interacts with broader political, economic, and social dynamics over time (Simmons, 2009). Such approaches help distinguish between short-term symbolic commitments and long-term structural transformations.

In light of these considerations, empirical research plays a crucial role in grounding theoretical debates about the effectiveness of international law. It compels scholars and policymakers to address the discrepancy between normative aspirations and practical realities, while also encouraging the development of evidence-based strategies to enhance compliance. For example, linking treaty monitoring mechanisms to incentives such as development assistance, diplomatic engagement, or targeted sanctions may help strengthen accountability. Similarly, empowering domestic actors including national human rights institutions and grassroots organisations can generate internal pressure for implementation, thereby bridging the gap between

international norms and domestic practice (Goodman & Jinks, 2013). In this way, the empirical perspective challenges assumptions that compliance follows automatically from ratification and instead emphasises the importance of continuous monitoring, adaptive enforcement strategies, and sensitivity to contextual factors.

Empirical findings on the relationship between treaty ratification and state behaviour further illustrate this complexity. Some studies, such as those conducted by Song and Yang (2023), suggest that under favourable domestic conditions including political stability, democratic governance, judicial independence, and active civil society participation treaty ratification is often associated with tangible improvements in human rights protection. In such contexts, international treaties can reinforce ongoing domestic reforms and provide a framework for advocacy and policy development. Mechanisms of democratic accountability, in particular, have been shown to enhance compliance by creating political incentives for governments to adhere to international standards (Keith, 2012). Additionally, international monitoring processes and the influence of transnational advocacy networks can further support compliance, especially where states are open to external scrutiny and engagement with global norms (Risse, Ropp, & Sikkink, 2013).

However, other studies caution against assuming a direct or uniform relationship between ratification and implementation. Creamer and Simmons (2020) argue that in the absence of strong domestic political will, international legal commitments often remain largely aspirational, particularly in contexts characterised by authoritarian governance or weak rule of law. Similarly, Gray (2022) finds that in settings marked by fragile institutions, limited resources, or socio-political resistance, treaty ratification may function primarily as a symbolic gesture aimed at enhancing international image rather than as a genuine commitment to reform. These findings reinforce the importance of adopting a context-sensitive analytical framework when assessing

treaty effectiveness. Rather than treating treaties as universally effective instruments, it becomes essential to consider how domestic political dynamics, institutional capacity, and societal engagement shape their impact on human rights practices (Hill, 2016).

Building on these perspectives, a number of scholars emphasise that legal harmonisation and institutional reform constitute critical preconditions for the effective implementation of international treaties. Ensuring that domestic legal systems are aligned with international human rights standards is widely regarded as an essential step in closing the gap between formal ratification and practical enforcement (Song & Yang, 2023). In the absence of such alignment, international obligations may be weakened by inconsistencies within national legal frameworks, gaps in enforcement mechanisms, and ambiguities in interpretation. Additionally, resistance to implementation may arise from entrenched bureaucratic systems, deeply rooted cultural practices, or political elites who view international obligations as external impositions or potential threats to national sovereignty (Helmke & Levitsky, 2004). In response to these challenges, scholars and practitioners have advocated for targeted reforms, including constitutional amendments, specialised judicial training, and the establishment or strengthening of national human rights institutions, as mechanisms for facilitating the effective domestication of treaty obligations (Vignoli & Corradi, 2024). Such reforms not only promote legal consistency but also enhance institutional capacity to interpret, enforce, and adapt international norms within specific domestic contexts.

In parallel, international organisations and development partners have increasingly recognised the importance of supporting domestic legal reform processes as part of broader treaty implementation strategies. Interventions such as technical assistance programmes, legislative review processes, and opportunities for peer learning across jurisdictions have become key tools

for strengthening institutional preparedness (OHCHR, 2021). Within this framework, capacity-building is no longer viewed as a peripheral activity but rather as a central pillar of treaty effectiveness. By equipping states with the necessary legal, administrative, and technical capabilities, these initiatives facilitate the internalisation of international norms and support their translation into durable policy and governance frameworks. Ultimately, the effectiveness of international human rights treaties depends not only on their formal legal status or normative appeal but also on the ability of domestic institutions to integrate, operationalise, and sustain their provisions in everyday governance practices.

It is also important to recognise that treaties do not follow a uniform path in terms of ratification and implementation. Empirical evidence indicates considerable variation, with some treaties being adopted and domesticated relatively quickly, while others encounter prolonged delays or resistance at various stages of the process (Vignoli & Corradi, 2024). This variability complicates attempts to generalise about treaty effectiveness and highlights the influence of contextual factors, including political priorities, institutional capacity, and societal dynamics. It also points to important gaps in existing scholarship, particularly in understanding why similar treaties produce divergent outcomes across different settings an issue that this study seeks to explore in greater depth.

Against this backdrop, evaluating the practical impact of international human rights treaties necessitates engagement with foundational principles of international law, especially the doctrine of *pacta sunt servanda*, which affirms the binding nature of treaty obligations. This principle serves as a cornerstone of the international legal system, reinforcing the expectation that states will honour their commitments in good faith. The following section therefore examines this doctrine

in detail, analysing its legal foundations and its relevance to the processes of treaty ratification and domestication undertaken by states.

### **2.3.2 *Pacta Sunt Servanda* Principle of Treaty Law**

The doctrine of *Pacta Sunt Servanda* is widely recognised as a cornerstone of international treaty law, reflecting the fundamental expectation that agreements between states must be carried out in good faith. At its core, the principle establishes that once states voluntarily consent to be bound by a treaty, they incur legal obligations that must be honoured in accordance with its terms (Halil, 2021). Unlike domestic legal systems, where compliance is typically reinforced through formal enforcement mechanisms and authoritative institutions, the international legal order depends largely on the voluntary adherence of sovereign states to their commitments. This reliance on good faith is particularly significant in the domain of human rights, where enforcement mechanisms are often limited and compliance depends heavily on political will (Abdullahi & Muisa, 2023).

Originating from the Latin phrase meaning “agreements must be kept,” *Pacta Sunt Servanda* has long been a foundational principle within both civil law traditions and the broader framework of international law. Historically rooted in contract law, it reflects the expectation that once parties enter into an agreement, they are legally obliged to fulfil their commitments (Zheifeng, 2022, p. 746). Beyond its moral dimension, the principle functions as a binding legal norm that underpins trust in formal agreements. Whether applied in domestic or international contexts, it ensures that obligations are treated as enforceable commitments rather than mere declarations, thereby contributing to legal certainty and the orderly conduct of relations among actors.

In the context of international law, the significance of this principle is heightened by the absence of a central authority capable of enforcing compliance. As a result, the effectiveness of treaty regimes depends substantially on the expectation that states will act in good faith in implementing their obligations (Morgan, 2021). Ratification of a treaty therefore represents more than a symbolic or political act; it signifies a binding legal commitment that supports stability and fosters mutual trust among states. This is especially important in areas requiring sustained cooperation, such as human rights protection, international trade, environmental governance, and collective security. Without the assurance provided by this principle, the reliability and functionality of treaty-based systems would be severely undermined.

Additionally, *Pacta Sunt Servanda* contributes to predictability in international relations by reinforcing the expectation that agreed obligations will be respected. This predictability enables states to engage in long-term cooperation, negotiate agreements with confidence, and participate effectively in multilateral arrangements. Violations of treaty obligations may lead to legal or political consequences, including dispute resolution processes, diplomatic repercussions, or reputational damage, all of which serve as indirect mechanisms encouraging compliance. In this sense, the principle performs both a normative and practical function, supporting the integrity of the international legal system while facilitating coordinated action among states (Morgan, 2021; Zheifeng, 2022, p. 746). Its continued relevance ultimately depends on the willingness of states to uphold their commitments in good faith.

The practical significance of *Pacta Sunt Servanda* is most evident in its role as a foundation for treaty legitimacy and effectiveness. By ensuring that international agreements carry binding legal force, the principle transforms treaties from symbolic expressions into enforceable obligations. When a state ratifies a treaty, it not only accepts specific duties but also acquires the

corresponding expectation that other parties will comply with their obligations. This reciprocal arrangement strengthens trust among states and establishes a stable normative framework for international cooperation (Abdullahi & Muisa, 2023). In the absence of such assurance, states would be less inclined to enter into agreements, fearing non-compliance by others. Accordingly, *Pacta Sunt Servanda* functions as a key mechanism for promoting legal certainty, reinforcing reciprocity, and sustaining cooperative relationships within the international system.

In addition, the principle plays a pivotal role in fostering cooperation and advancing the objectives of international treaties, particularly in areas such as human rights protection, environmental governance, and disarmament. Agreements within these fields often involve long-term commitments that require sustained collaboration and mutual dependence among states. For example, within the human rights framework, the expectation that states will comply with treaty obligations enables individuals, civil society organisations, and international institutions to hold governments accountable for violations or omissions (Abdullahi & Muisa, 2023). This presumption of compliance generates both legal and normative pressure, encouraging states to internalise treaty standards through legislative reform, administrative measures, and policy development. In this regard, *Pacta Sunt Servanda* not only reinforces the structural stability of the treaty system but also facilitates the realisation of the normative goals embedded in international legal instruments.

The significance of this principle is further heightened by the absence of a centralised enforcement authority within the international legal system comparable to domestic judicial institutions. As a result, compliance with international agreements depends largely on voluntary adherence, reputational considerations, diplomatic engagement, and mechanisms such as treaty-monitoring bodies and dispute resolution processes. The effectiveness of these mechanisms is

grounded in the assumption that states accept their obligations in good faith and intend to fulfil them (Abdullahi & Muisa, 2023). Consequently, breaches of treaty obligations do not only affect specific agreements but also undermine the broader credibility of international law. By reinforcing expectations of compliance, *Pacta Sunt Servanda* contributes to the coherence and functionality of international governance, highlighting the central importance of good faith within a decentralised and consent-based legal system.

Despite its foundational status, the universality of *Pacta Sunt Servanda* has been the subject of ongoing scholarly debate. Normann and Normann (2023) argue that, much like contractual principles in domestic legal systems, its application is not always absolute and may require contextual interpretation. According to this perspective, certain circumstances such as unforeseen changes or shifting international conditions may justify a degree of flexibility in the application of treaty obligations. This approach introduces a more nuanced understanding of the principle, recognising the potential tension between the need for stability in international agreements and the practical realities faced by states.

An illustrative example of resistance to the full application of this principle can be observed in Belarus, where officials from the Ministry of Foreign Affairs have challenged the binding nature of decisions issued by international human rights bodies, citing concerns related to state sovereignty. In this context, authorities have maintained that such decisions are only enforceable where there is explicit state consent to the jurisdiction of the relevant international institutions (Ulyashyna, 2023). This position highlights the difficulties that arise when national interpretations of sovereignty conflict with established norms of international law and treaty obligations.

The debate is further complicated by misunderstandings surrounding the authority of international institutions, including bodies such as the United Nations Security Council. While some actors recognise the binding nature of certain international decisions, others treat treaty obligations as discretionary, failing to acknowledge the provisions of the Vienna Convention on the Law of Treaties (1969), which affirm the binding force of treaties concluded between states. Such misinterpretations can weaken the consistency and predictability of international legal obligations.

From an institutional perspective, Zhifeng (2022) argues that the effectiveness of *Pacta Sunt Servanda* is contingent upon the presence of supportive legal and economic conditions within states. In contexts where legal infrastructure is weak or economic resources are limited, the practical application of the principle may be constrained. This critique underscores the idea that treaty compliance is influenced not only by legal norms but also by broader systemic factors, including governance capacity, judicial independence, and economic stability.

Notwithstanding these critiques and practical challenges, *Pacta Sunt Servanda* continues to serve as a foundational doctrine within international law. It establishes clear expectations regarding the conduct of states in relation to their treaty obligations and provides a benchmark against which compliance can be assessed. For this reason, the present study adopts *Pacta Sunt Servanda* as a guiding analytical principle in examining the processes of ratification and domestication of international human rights treaties. Its enduring relevance lies in its ability to frame international commitments within a structure of legal obligation, even in the face of evolving political and institutional complexities.

### 2.3.3 Capacity of States to Conclude Treaties

The capacity of states to negotiate, enter, and ultimately conclude human rights treaties constitutes a foundational element of the international legal system. This capacity ensures that treaties are not only negotiated but also formalised by actors who possess the requisite legal authority to bind their respective states to international obligations. In this regard, the concept of capacity serves as a safeguard for the legitimacy and validity of international agreements, preventing unauthorised commitments and ensuring that only recognised subjects of international law participate in treaty-making. A comprehensive understanding of this capacity is therefore essential, not only for assessing the validity of treaties but also for maintaining the coherence, predictability, and orderly functioning of the international legal order. This section critically examines scholarly perspectives on the capacity of states to conclude treaties, with particular emphasis on the role of the Vienna Convention on the Law of Treaties (VCLT) in codifying and regulating this capacity.

Costa and Advogados (2024) provide a detailed and authoritative account of the VCLT as the principal instrument governing treaty-making processes in international law. They emphasise that the Convention establishes a general legal framework that recognises the inherent capacity of all states to conclude treaties. This principle is explicitly articulated in Article 6 of the VCLT, which affirms that every state, by virtue of its status as a subject of international law, possesses the legal competence to enter into binding agreements. This provision reflects the fundamental equality of states within the international system, regardless of their size, political structure, or level of development. Furthermore, the Convention elaborates on the rules governing representation, specifying that only duly authorised individuals such as heads of state, heads of government, and ministers of foreign affairs are empowered to act on behalf of the state in treaty

negotiations. These representatives are authorised to adopt, authenticate, and express consent to be bound by treaties without requiring additional proof of authority. By establishing these rules, the VCLT provides essential procedural safeguards that protect the integrity of treaty-making and prevent the risk of unauthorised or invalid commitments (VCLT, 1969).

While the primary focus of this study is on state actors, it is important to recognise that the capacity to conclude treaties is not exclusively reserved for states. International organisations, where recognised as subjects of international law, may also possess treaty-making powers. However, unlike states whose capacity is inherent and universally recognised, the capacity of international organisations is derived from their constitutive instruments and limited by their mandates (Costa & Advogados, 2024). This distinction is significant because it underscores the principle that treaty-making authority is contingent upon legal personality within the international system. Only entities endowed with such personality can enter into agreements that generate binding obligations under international law. This differentiation also highlights the unique position of states as primary actors within the international legal order.

The ability of a state to conclude treaties is widely regarded as a defining characteristic of its status as a subject of public international law. Crawford (2019) explains that subjects of international law are entities that possess rights and obligations under the international legal system and have the capacity to exercise those rights while fulfilling corresponding duties. For states, this includes the authority to participate in treaty-making processes, to assert claims in international forums, and to be held accountable for breaches of international obligations. This dual capacity both to act and to bear responsibility is central to the functioning of the international legal system, as it ensures that states are not only empowered to engage in legal relations but are also subject to accountability mechanisms that uphold legal order and predictability.

In addition to establishing the capacity of states, international law also emphasises the voluntary nature of treaty participation. Mańko (2023) highlights that states enter into treaties as an expression of their sovereign will, reflecting the principle of consent that underpins international legal obligations. This voluntariness reinforces the legitimacy of treaties, as obligations arise from the deliberate agreement of the parties involved. However, the VCLT also recognises that treaty obligations must be accompanied by mechanisms to address breaches. Article 60 of the Convention introduces the concept of material breach and outlines the conditions under which treaty parties may respond to such violations. In cases of material breach, other parties may, by mutual agreement, suspend or terminate the treaty either in relation to the defaulting state or collectively among all parties. This provision ensures that treaty relationships remain balanced and fair, allowing states to respond appropriately to significant non-compliance while preserving the overall integrity of the agreement.

Extending this analysis, some scholars argue that Article 60 can also be applied in the context of treaties establishing international organisations. In such cases, states that fail to comply with their obligations may face suspension or exclusion, thereby safeguarding the effectiveness and credibility of the institution (Mańko, 2023). This highlights the dynamic nature of treaty relations, where the ability to conclude agreements is complemented by mechanisms for addressing non-compliance. The interplay between these elements reflects a balance between the binding nature of treaties and the sovereign equality of states, ensuring that international legal relationships remain both stable and adaptable.

Furthermore, the capacity to conclude treaties must be understood within the broader context of international legal practice, where procedural validity and substantive legitimacy are closely interconnected. The existence of clear rules governing capacity, representation, and

consent helps to prevent disputes regarding the validity of treaties and strengthens confidence in international agreements. By providing a structured framework for treaty-making, the VCLT contributes to the development of a rules-based international order in which states can engage with one another based on mutual respect and legal certainty.

In conclusion, the capacity of states to conclude treaties is firmly grounded in international legal doctrine and is comprehensively codified in instruments such as the Vienna Convention on the Law of Treaties. This capacity affirms the authority of states to participate in the creation of international obligations while also establishing the procedural safeguards and remedial mechanisms necessary to ensure the validity and effectiveness of those obligations. A thorough understanding of this concept is essential for analysing how states engage with human rights treaties and for evaluating the extent to which they fulfil their commitments within the broader framework of international law.

## **2.4 Treaty-Making Process**

Understanding treaty-making is essential to ensure the legitimacy and validity of a treaty. This literature review examines the treaty-making process in relation to the VCLT. According to Fuentes and Villalpando (2020), the process of creating a treaty consists of several phases: (i) negotiating to find common ground among the participants, (ii) adopting and validating the text of the treaty, (iii) expressing consent to be bound by the treaty, and (iv) the treaty's entry into force.

### **2.4.1 Treaty Negotiations**

The process of treaty negotiation represents a foundational and indispensable stage in the formation of international agreements, particularly in the domain of human rights. It is during this phase that the substantive content, scope, and structure of a treaty are initially shaped, reflecting both the strategic interests and normative priorities of participating states. A defining characteristic

of this stage is the principle of procedural freedom, which grants states and their representatives considerable discretion in determining how negotiations are conducted (Comstock, 2022). Unlike later stages of the treaty-making process, which are more formally regulated by international law, the negotiation phase is largely governed by the mutual agreement of the parties involved. This flexibility allows states to design procedures that align with their specific political, legal, and diplomatic contexts, thereby facilitating meaningful engagement despite differences in interests and capacities.

This broad discretion extends to several critical aspects of the negotiation process. Participating states have the authority to determine the format and structure of negotiations, including whether discussions take place through formal diplomatic conferences, informal consultations, or multilateral forums. They may also define the scope and content of the treaty, decide on the methods through which consent to be bound will be expressed such as signature, ratification, or accession and establish the conditions under which the treaty will enter into force (Law Reform Commission, 2020). Such procedural autonomy allows negotiators to adapt the process to the specific needs of the issue at hand, thereby increasing the likelihood of achieving consensus among diverse actors. It is for this reason that the Vienna Convention on the Law of Treaties (VCLT) does not provide an extensive regulatory framework for the negotiation phase. Instead, it offers only limited residual rules intended to address procedural uncertainties or disputes that may arise in the absence of explicit agreement among the parties (Law Reform Commission, 2020).

Beyond its procedural flexibility, the negotiation phase also plays a significant substantive role in shaping the effectiveness of treaties. Empirical research underscores the importance of participation in negotiations as a factor influencing subsequent state behaviour. Drawing on

extensive data relating to state involvement in United Nations treaty negotiations, Comstock (2022) finds that such participation is positively associated with improvements in human rights practices. Importantly, the effects of negotiation participation are not immediate; rather, they tend to emerge gradually over time, with the most notable changes occurring approximately a decade after the treaty's adoption. This delayed impact suggests that negotiations function as more than mere preparatory steps; they act as mechanisms of socialisation through which states are introduced to and gradually internalise international norms. Through repeated interaction, dialogue, and exposure to shared expectations, states become more inclined to align their domestic practices with international human rights standards.

This understanding aligns with broader scholarly perspectives that emphasise the role of normative socialisation in determining the success of international human rights treaties. Rather than relying solely on formal enforcement mechanisms, the effectiveness of such treaties is often linked to their ability to influence state behaviour through the gradual internalisation of norms and values (Hoffman et al., 2022). In this context, negotiations serve as a critical platform for shaping these norms, allowing states to engage with, contest, and ultimately adopt shared understandings of human rights obligations. The process therefore contributes not only to the formulation of legal texts but also to the construction of a shared normative framework that guides future compliance.

In addition to its procedural and normative dimensions, the negotiation phase has also prompted debate regarding the existence of a legal or moral obligation for states to participate in negotiations. Oliver (2023) examines this issue within the context of international human rights law, where collective action is often necessary to address global challenges. While acknowledging the principle of state sovereignty, which allows states to decide whether to engage in treaty-making, Oliver suggests that there may nonetheless be an emerging expectation that states

negotiate in good faith. This obligation entails more than mere participation; it requires states to engage constructively by proposing reasonable solutions and demonstrating a genuine willingness to reach agreement. Although such an obligation is difficult to enforce in practice, it reflects a growing recognition that effective international cooperation depends on meaningful engagement during the negotiation phase.

The concept of good faith negotiation also highlights the evolving nature of international law, where traditional notions of sovereignty are increasingly balanced against the need for collective responses to global issues. In the context of human rights, this balance is particularly significant, as the protection of fundamental rights often requires coordinated action across multiple jurisdictions. By encouraging states to negotiate in good faith, the international legal system seeks to promote cooperation while respecting the autonomy of individual states.

In conclusion, the negotiation phase of treaty-making is both highly flexible and critically important in shaping the outcome and effectiveness of international agreements. It provides states with the procedural autonomy necessary to tailor negotiations to their specific contexts while also serving as a key site for normative development and socialisation. The literature demonstrates that participation in negotiations can have long-term effects on state behaviour, reinforcing the importance of this stage in the broader treaty-making process. Furthermore, emerging discussions on the duty to negotiate in good faith highlight evolving expectations regarding state conduct, underscoring the interconnected relationship between negotiation practices and the overall effectiveness of international human rights law.

### **2.4.2 Adoption and Authentication of the Text of a Treaty**

The stages of adoption and authentication represent crucial formal steps in the treaty-making process, as they establish the definitive legal form of a treaty and prepare the ground for states to subsequently express their consent to be bound. These stages mark the transition from negotiation to formalisation, ensuring that the outcomes of diplomatic deliberations are clearly articulated, mutually agreed upon, and procedurally valid. Adoption refers to the formal acceptance of the final wording of the treaty by the negotiating parties, signalling the conclusion of negotiations and the agreement on the substantive content of the instrument. Authentication, by contrast, serves to confirm that the adopted text accurately reflects the consensus reached and that it is free from discrepancies, errors, or ambiguities that might otherwise undermine its interpretation or application (Law Reform Commission, 2020). Together, these processes play a central role in promoting legal certainty, transparency, and a shared understanding among states before any binding obligations arise.

The requirement for adoption is explicitly codified in Article 9 of the Vienna Convention on the Law of Treaties (VCLT), which provides that the text of a treaty is adopted by the consent of all states participating in its drafting (United Nations, 1969). This consent may be achieved through a variety of procedural mechanisms, depending on the context and nature of the treaty. In many cases, particularly for multilateral treaties, adoption takes place through consensus or formal voting at international diplomatic conferences. During such conferences, representatives of participating states engage in detailed discussions, negotiations, and compromises before agreeing on a final text. The act of adoption thus represents a significant milestone, reflecting not only agreement on the wording of the treaty but also the culmination of complex diplomatic processes

aimed at reconciling diverse interests and perspectives (Law Reform Commission, 2020; Crawford, 2019).

Following the adoption of the treaty text, the next step is authentication, which provides official confirmation that the agreed text is authoritative and accurate. Authentication is typically carried out through the signature or initialling of the treaty by duly authorised representatives of the participating states. This act serves as a formal certification that the text is the definitive version agreed upon during negotiations and is intended to prevent disputes over interpretation arising from inconsistencies or inaccuracies (United Nations, 1969). As clarified in Articles 9 and 10 of the VCLT, authentication does not in itself create binding legal obligations. Rather, it is a procedural step that validates the form and content of the treaty without constituting consent to be bound (Crawford, 2019). In this sense, authentication confirms the integrity of the treaty text while preserving the distinction between agreement on content and acceptance of legal obligations.

It is therefore essential to distinguish between the signature used for authentication and a subsequent signature that signifies a state's consent to be bound under Article 12 of the VCLT (United Nations, 1969). The initial act of signing during authentication does not impose a legal obligation on a state to ratify or implement the treaty, nor does it require the state to proceed to subsequent stages of consent. However, international law recognises that once a state has signed a treaty, even at the authentication stage, it assumes a limited obligation not to act in a manner that would defeat the object and purpose of the treaty pending a decision on ratification (Shelton, 2014). This interim obligation reflects the principle of good faith and ensures that the integrity of the treaty is preserved during the period between signature and formal consent.

The specific procedures for adoption and authentication may vary depending on the nature of the treaty and the preferences of the negotiating parties. Articles 9 and 10 of the VCLT explicitly

acknowledge that these processes may take different forms as agreed upon by the parties, thereby allowing flexibility in diplomatic practice (United Nations, 1969). For example, in the case of treaties negotiated at formal international conferences, the authenticated text is often annexed to the final act of the conference, providing an official record of the agreed provisions and the participation of the states involved (Law Reform Commission, 2020). This flexibility enables states to tailor procedural arrangements to the specific context of each treaty while maintaining the core principles of clarity and legitimacy.

In conclusion, the stages of adoption and authentication serve as essential legal milestones in the treaty-making process. Adoption signifies collective agreement on the substance of the treaty, while authentication ensures the accuracy and authority of its text. Together, these processes establish a clear and reliable foundation upon which states can subsequently express their consent to be bound. Their codification in the Vienna Convention on the Law of Treaties reflects their central importance in promoting procedural legitimacy, legal certainty, and mutual understanding within the international legal system. As such, they play a vital role in upholding the rule of law in international relations and ensuring the effective functioning of treaty regimes.

### **2.4.3 Expression of Consent to be bound**

The expression of consent to be bound constitutes one of the most critical legal and procedural stages in the treaty-making process, as it marks the point at which a State formally accepts to be legally obligated by the provisions of an international agreement. This stage represents a transition from political engagement to binding legal commitment, distinguishing preliminary diplomatic actions from enforceable obligations under international law. While the act of signing a treaty is often interpreted as an indication of political will and support for the treaty's objectives, it does not, on its own, create binding legal duties. Rather, signature serves as an initial

step that reflects a State's intention to consider the treaty seriously and to undertake the necessary domestic and international procedures required for ratification or equivalent forms of consent (Fuentes & Villalpando, 2020). In this sense, signing operates as an expression of good faith, signalling openness to the treaty framework while preserving the State's discretion to complete its internal approval processes before assuming legal obligations.

International human rights treaties, like other categories of treaties, typically establish clear procedures through which States may express their consent to be bound. These procedures include mechanisms such as ratification, acceptance, approval, accession, and in certain circumstances, signature itself where so provided. Each of these methods serves as a formal pathway through which States move from political endorsement to legally enforceable commitment (Law Reform Commission, 2020). The Vienna Convention on the Law of Treaties (VCLT) provides the overarching legal framework governing these processes. Article 11 of the Convention outlines the various means by which consent may be expressed, including signature, exchange of instruments, ratification, or any other method agreed upon by the parties (United Nations, 1969). This flexibility allows States to adopt procedures that align with their constitutional and legal systems while maintaining uniformity and predictability in international practice.

A particularly significant moment within this process is the exchange or deposit of instruments of ratification, which represents the definitive act through which a State confirms its consent to be legally bound by a treaty. This step typically involves the submission of formal documentation to a designated depositary, often an international body such as the Secretary-General of the United Nations, thereby formalising the State's acceptance of the treaty's obligations (Shelton, 2014). The deposit or exchange of such instruments is not merely administrative; it carries profound legal implications, as it signifies the completion of all necessary

procedures required for the treaty to become binding upon the State. Furthermore, Article 16 of the VCLT emphasises the importance of transparency and procedural clarity in this phase, ensuring that all parties are informed of the status of ratification and that the treaty's legal force is properly established (United Nations, 1969). This stage therefore plays a crucial role in maintaining the legitimacy, credibility, and enforceability of international agreements.

Scholarly literature has also explored the broader implications of treaty ratification, particularly in relation to state sovereignty. Yunus, Sholeh, and Susilowati (2023), in their qualitative analysis, highlight the complex and sometimes paradoxical relationship between ratification and national autonomy. On one hand, ratification may strengthen sovereignty by enhancing a State's participation in international cooperation, improving its global standing, and reinforcing domestic protection of human rights. On the other hand, it may impose certain constraints by subjecting the State to international obligations and oversight mechanisms. This dual character reflects the delicate balance that States must navigate between preserving sovereign independence and engaging in collective international commitments.

Further insights are provided by Sun (2023), who examines the practical challenges associated with implementing international obligations following ratification. According to this perspective, ratification entails not only formal acceptance of legal duties but also a commitment to respect, protect, and fulfil human rights standards within the domestic sphere. While governments may ratify treaties as a demonstration of commitment to reform, the translation of these commitments into tangible outcomes often requires extensive institutional, legal, and societal transformation. Changes in legislation, administrative practices, and public attitudes may take considerable time to materialise, highlighting the gap that can exist between formal commitment and actual implementation. Although the ratification of human rights treaties generates optimism

regarding improved protections, it also underscores the limitations of international enforcement mechanisms and the dependence on domestic systems for effective realisation of rights (Sun, 2023).

In conclusion, the expression of consent to be bound represents a decisive moment in the treaty-making process, marking the shift from political intent to binding legal obligation. Governed by established international legal norms, particularly those codified in the Vienna Convention on the Law of Treaties, this process ensures that States undertake commitments in a clear, structured, and legitimate manner. At the same time, it reflects the complex interaction between sovereignty, international cooperation, and the pursuit of human rights objectives. While it provides the legal foundation for treaty obligations, it also reveals the practical and normative challenges associated with implementation and enforcement, underscoring the importance of both legal frameworks and domestic capacity in achieving the goals of international agreements.

#### **2.4.4 Entry into Force**

The entry into force of an international treaty represents the final procedural stage in the treaty-making process and marks the moment at which the instrument acquires binding legal force for the States that have expressed their consent to be bound. This phase is essential in transforming a negotiated and authenticated text into an operative legal framework within international law. In effect, it signifies the transition from a formally agreed document to a functional source of rights and obligations. Article 24 of the Vienna Convention on the Law of Treaties (VCLT) provides the governing legal framework for this process, stipulating that a treaty enters into force in accordance with the terms agreed upon by the negotiating parties. Where no specific date or conditions are

provided, the treaty becomes effective once all participating States have expressed their consent to be bound (United Nations, 1969). This provision ensures both flexibility and legal certainty in determining when treaty obligations begin to operate.

In practice, most treaties particularly those in the field of human rights include explicit provisions outlining the conditions necessary for entry into force. These provisions often require that a minimum number of States deposit their instruments of ratification, acceptance, or accession before the treaty becomes operational. Such requirements are designed to ensure that treaties are supported by a sufficient level of international participation, thereby enhancing their legitimacy and practical relevance. For example, the International Covenant on Civil and Political Rights (ICCPR) specified that it would enter into force three months after the deposit of the thirty-fifth instrument of ratification (Office of the United Nations High Commissioner for Human Rights [OHCHR], 2005). This type of delayed entry allows States adequate time to complete domestic legal and administrative preparations necessary for implementation, reflecting a balance between prompt activation and effective compliance.

Where a treaty does not contain an explicit entry-into-force clause, Article 24(2) of the VCLT establishes a default rule, providing that the treaty enters into force once all negotiating States have consented to be bound. This safeguard prevents uncertainty or indefinite delay in the application of treaties and reinforces the principle that consent is the cornerstone of binding international obligations (Crawford, 2019). Additionally, some treaties incorporate provisions for provisional application, allowing States to apply certain aspects of the treaty prior to its formal entry into force. Such arrangements are particularly useful in urgent contexts, as they enable early implementation while domestic ratification processes are still underway (Aust, 2013). Provisional

application thus reflects the pragmatic dimension of treaty law, accommodating the need for timely action without compromising formal legal procedures.

Beyond its procedural function, the entry into force of a treaty also carries significant symbolic and political meaning. It represents the culmination of earlier stages including negotiation, adoption, authentication, and ratification and signals the collective commitment of States to uphold the agreed norms and obligations. At this point, the treaty transitions from an aspirational framework into a binding legal instrument, activating mechanisms for compliance, monitoring, and, where applicable, enforcement. This moment is particularly important in the context of human rights treaties, which often establish oversight bodies and reporting obligations aimed at ensuring accountability (Shelton, 2014). Thus, entry into force not only operationalises legal commitments but also reinforces the legitimacy and authority of the treaty within the international system.

Despite the structured nature of this process, the trajectory from negotiation to entry into force and subsequent implementation is not uniform across treaties. Empirical studies demonstrate significant variation in how treaties are received and applied by States. While some treaties particularly those reflecting widely accepted norms or enjoying strong political backing are ratified and implemented relatively quickly, others encounter delays, resistance, or limited engagement (Vignoli & Corradi, 2024). Treaties addressing sensitive or contested issues, such as the rights of LGBTQ+ individuals, indigenous peoples, or victims of enforced disappearance, often face sociopolitical barriers that hinder ratification and implementation (Hathaway, 2007). In some cases, States may engage in selective or superficial compliance, adopting legislative measures without effecting substantive changes in practice a phenomenon commonly described as “window

“dressing” (Simmons, 2009). These disparities complicate efforts to generalise about treaty effectiveness and highlight the importance of context-specific analysis.

Considering these complexities, any comprehensive evaluation of the impact of international human rights treaties must engage with the foundational principles that confer legal force upon such instruments. Central among these is the doctrine of *pacta sunt servanda*, codified in Article 26 of the VCLT, which affirms that treaties are binding upon the parties and must be performed in good faith (United Nations, 1969). This principle serves as a normative bridge between the act of ratification and the practical implementation of treaty obligations, reinforcing the expectation that States will honour their commitments. However, its application is not without challenges. Factors such as competing national interests, institutional limitations, and weak enforcement mechanisms may undermine compliance, revealing the gap between legal obligation and practical reality (Klabbers, 2013).

Furthermore, the relevance of *pacta sunt servanda* extends beyond the initial moment of ratification to encompass the ongoing responsibilities of States to implement and domesticate treaty obligations. In the context of human rights law, this entails not only incorporating treaty provisions into domestic legal systems but also continuously adapting policies, institutions, and practices in response to evolving interpretations and monitoring mechanisms. Failure to fulfil these obligations may constitute a breach of international law and weaken the credibility of the broader human rights regime (Henkin, 1995). Consequently, analysing how this principle operates in diverse legal and political contexts is essential for understanding the broader dynamics of treaty effectiveness. The subsequent section will therefore explore the legal and political dimensions of this doctrine in greater depth, with particular focus on its implications for ratification and domestication processes within regional systems such as Africa.

#### **2.4.5 Analysis of Monist and Dualist Systems in Domestication of Treaties**

The interaction between international law and domestic legal systems is a fundamental issue in understanding how international treaties are implemented, interpreted, and enforced within national jurisdictions. This relationship extends beyond purely legal considerations and encompasses broader political, institutional, and constitutional dimensions that ultimately determine the extent to which states comply with their international obligations. Central to this discourse are the theoretical frameworks of monism and dualism, which offer contrasting perspectives on how international legal norms, particularly human rights treaties, are incorporated into domestic legal systems. These paradigms not only influence legal doctrine but also shape judicial decision-making, legislative priorities, and the overall effectiveness of treaty implementation within states (Sloss, 2020).

Garg (2023), through a detailed desk-based analysis, explores the operational differences between monist and dualist systems and demonstrates how these distinctions affect the domestic applicability of international law. In monist systems, international law is viewed as an integral component of the domestic legal order. Once a treaty is ratified, it is automatically incorporated into national law without the need for additional legislative measures. This direct applicability allows individuals to invoke treaty provisions before domestic courts and enables judges to apply international legal standards in adjudicating disputes. In many monist jurisdictions, international law may even be accorded a status equal to or higher than that of domestic legislation, thereby reinforcing a unified legal framework in which international obligations carry significant normative weight (Garg, 2023; Aust, 2010). This approach enhances the immediacy and effectiveness of treaty implementation, particularly in the field of human rights, where timely enforcement is often critical.

The monist perspective is closely associated with natural law traditions, which emphasise the existence of universal principles of justice, morality, and human dignity that transcend national boundaries. Within this framework, international law particularly human rights law is perceived not merely as a set of external obligations but as a reflection of fundamental moral values that should guide domestic governance (Besson, 2009). As a result, monist systems are generally better positioned to internalise international human rights norms, ensuring that such standards are directly applicable and enforceable at the national level. This alignment between international obligations and domestic legal systems contributes to stronger protection of rights and enhances the practical effectiveness of treaties.

In contrast, dualism conceptualises international and domestic law as two distinct and separate legal systems. Under this approach, the ratification of a treaty does not automatically render it enforceable within the domestic legal framework. Instead, the provisions of the treaty must be formally incorporated into national law through legislative processes, such as the enactment of enabling statutes or parliamentary approval. This requirement reflects a strong emphasis on state sovereignty and democratic legitimacy, as it ensures that domestic institutions retain control over the incorporation and application of international obligations (Klabbers, 2017). While dualist systems may acknowledge the binding nature of international commitments at the external level, their domestic effect is contingent upon deliberate legislative action. This additional procedural layer can lead to delays, inconsistencies, or partial implementation, particularly in politically sensitive areas such as civil liberties, anti-discrimination measures, and refugee protection (Sloss, 2020; Garg, 2023).

Understanding whether a state adopts a monist or dualist approach is therefore essential when evaluating the real-world impact of treaty ratification. The process of domestication is not

merely technical but is deeply influenced by constitutional arrangements, judicial interpretation, and political priorities. In jurisdictions characterised by strong monist traditions and independent judiciaries, the transition from ratification to implementation is often more direct and efficient. Conversely, in dualist systems, even treaties that have been formally ratified may encounter obstacles in the form of legislative inertia, bureaucratic delays, or political resistance, thereby limiting their practical impact (Aust, 2010; Besson, 2009). This divergence highlights the importance of institutional context in determining the effectiveness of international legal obligations.

The theoretical foundations of monism are frequently attributed to the work of Hans Kelsen, a leading figure in legal positivism. In his seminal work *Peace Through Law* (1944), Kelsen advanced the concept of a unified legal order in which international law occupies a superior position within the normative hierarchy. He argued that for a coherent and stable legal system to exist, international norms must prevail over conflicting national laws, thereby establishing a hierarchy in which global legal standards serve as the ultimate source of legitimacy (Kelsen, 1944). According to Kelsen, such a structure would reduce fragmentation within the legal system and strengthen mechanisms for maintaining international peace and order. His vision of a supranational legal framework sought to limit the excesses of state sovereignty by subjecting states to binding international obligations. This theoretical model significantly influenced the development of post-World War II international institutions, including the United Nations and various international judicial bodies, which were designed to promote accountability and uphold human rights on a global scale (Sloss, 2020; Garg, 2023).

By contrast, the dualist approach is grounded in a sovereignty-oriented understanding of law, emphasising the independence of domestic legal systems from international norms. Under

this framework, the mere ratification of a treaty by the executive branch does not create enforceable rights or obligations within the domestic sphere. Instead, each treaty must undergo a process of transformation through domestic legislative procedures before it can take effect. This may involve parliamentary deliberation, constitutional review, and the enactment of implementing legislation (Nair, 2024). The rationale behind this approach lies in the principle of democratic legitimacy, which holds that domestic laws should be created and authorised by elected representatives rather than imposed externally. While this system allows for greater scrutiny and alignment with national interests, it can also result in delays or selective implementation, particularly in contexts where political resistance to international norms is strong (Garg, 2023; Klabbers, 2017).

Ultimately, the distinction between monism and dualism underscores the broader challenges associated with integrating international treaty obligations into domestic legal systems. While monism facilitates direct application and often enhances the effectiveness of treaties, dualism prioritises sovereignty and democratic control, sometimes at the expense of timely implementation. These contrasting approaches illustrate the complex interplay between international commitments and domestic governance structures, highlighting the importance of institutional design, political will, and legal culture in determining how effectively states fulfil their obligations under international human rights law.

Scholarly analysis increasingly recognises that neither monism nor dualism exists in its pure theoretical form within contemporary legal systems. Rather than adhering strictly to one paradigm, most states adopt hybrid approaches that selectively combine elements of both models depending on constitutional design, the nature of the treaty, and prevailing legal and political contexts (Aust, 2010). For instance, a state may permit the direct application of certain categories of international law, such as trade or environmental agreements, while requiring formal legislative

incorporation for others, particularly human rights treaties. This selective application introduces a degree of flexibility that can enhance adaptability but may also generate inconsistencies in how international obligations are internalised and enforced. As a result, the effectiveness of treaty implementation often depends on context-specific legal strategies rather than rigid adherence to a single doctrinal framework.

Olomjobi and Oga (2022) provide a detailed exploration of the dualist framework, emphasising its foundational premise that international and domestic legal systems operate as distinct and independent spheres, each deriving authority from separate sources. Within this framework, international treaties do not automatically acquire legal effect within the domestic system upon ratification. Instead, they must be transformed into national law through legislative processes, a requirement that reinforces state sovereignty and democratic accountability. Nigeria offers a clear illustration of this approach. Article 12 of the Nigerian Constitution requires that treaties be enacted by the National Assembly before they can have legal force domestically or be invoked in judicial proceedings (Olomjobi & Oga, 2022; Okafor, 2021). While this mechanism ensures parliamentary oversight and alignment with national interests, it can also lead to delays in implementation or create gaps between international commitments and enforceable domestic rights (Adebanjo, 2020). In cases where treaties remain unincorporated, courts may be reluctant to apply their provisions, resulting in legal uncertainty or inconsistent interpretations of rights obligations (Anyaeibunam, 2023).

Despite the analytical clarity provided by monism and dualism, many scholars caution that these frameworks function more as ideal types than as accurate representations of state practice. Kumm (2006) observes that very few states operate exclusively within either model. Instead, most legal systems display hybrid characteristics, shaped by constitutional provisions, judicial

interpretation, and political dynamics. For example, courts in formally dualist systems may refer to international law when interpreting ambiguous domestic legislation or when addressing gaps in the protection of fundamental rights (Corten & Klein, 2018). Conversely, in monist systems, the practical application of international norms may be limited by political resistance, institutional constraints, or lack of judicial capacity, resulting in outcomes that resemble dualist practice (Dixon & McCorquodale, 2022). These realities have led scholars such as Sloss (2020) to propose more nuanced or intermediate models of treaty implementation, emphasising the interaction of legal, institutional, and political factors rather than rigid doctrinal classifications.

The complexity of this relationship is particularly evident in regions such as Africa, where legal systems are shaped by diverse historical and institutional influences, including colonial legacies, constitutional transitions, and varying degrees of judicial independence. Kenya, for example, following its 2010 constitutional reforms, adopts a predominantly monist approach, whereby treaties ratified by Parliament automatically form part of domestic law (Garg, 2023). However, the practical effectiveness of this framework depends heavily on factors such as judicial willingness to apply international norms, public awareness of treaty rights, and the broader political commitment to the rule of law. These contextual dynamics highlight the limitations of applying rigid theoretical models and underscore the need for more empirical and functional approaches to understanding treaty domestication (Sloss, 2020; Kumm, 2006).

This increasing hybridity reflects the evolving and interconnected nature of modern legal systems, where international and domestic norms interact in complex and dynamic ways. Rather than operating within clearly defined boundaries, contemporary legal orders often exhibit features of legal pluralism, a concept that recognises the coexistence and interaction of multiple sources of law within a single system. As Slaughter (2000) observes, international law is increasingly

internalised through a variety of channels, including judicial interpretation, administrative practice, legislative reform, and civil society engagement. In this pluralistic framework, the implementation of international obligations is not confined to formal incorporation but is influenced by a wide range of actors, including courts, government agencies, non-governmental organisations, and even sub-national entities (Shaffer & Ginsburg, 2012). This broader perspective more accurately captures the diverse pathways through which international norms shape domestic governance (de Búrca, 2013).

Moreover, the emergence of hybrid systems challenges the adequacy of traditional legal theories in explaining or predicting state behaviour. A constitution may formally endorse a monist approach, yet political realities or institutional limitations may hinder the direct application of treaties. Conversely, a formal dualist system may experience robust judicial activism, allowing courts to apply international human rights norms even in the absence of explicit legislative incorporation (Tzanakopoulos, 2017). These variations suggest that treaty effectiveness cannot be understood solely through doctrinal classification but must be analysed within the broader legal, political, and institutional context. Scholars such as Sloss (2020) and Koh (1997) therefore advocate for approaches that focus on transnational legal processes, including mechanisms of persuasion, socialisation, and norm internalisation, which influence how states engage with and implement international obligations.

In summary, while monism and dualism remain important conceptual tools for understanding the relationship between international and domestic law, they are increasingly viewed as insufficient to capture the complexity of contemporary legal practice. In reality, most states operate within hybrid systems where treaty domestication is shaped by a combination of constitutional provisions, legislative processes, judicial interpretation, and political considerations.

The effectiveness of treaty implementation is therefore less dependent on formal legal doctrine and more influenced by institutional capacity, normative alignment, and societal engagement (Helfer & Slaughter, 1997; Dixon & McCorquodale, 2022). As international human rights law continues to expand, there is a growing need for context-sensitive and interdisciplinary approaches that move beyond rigid theoretical models and instead focus on how treaties are practically operationalised within diverse legal systems.

## **2.5 Commitment of Signatory States to Ratify Treaties**

The commitment of signatory States to ratify international human rights treaties remains a central pillar of the international legal order, particularly in the promotion and protection of human dignity and fundamental freedoms. Within this framework, Article 18(a) of the Vienna Convention on the Law of Treaties (VCLT) establishes an important interim obligation: a State that has signed a treaty, but has not yet ratified it, must refrain from acts that would defeat the object and purpose of that treaty (UN, 1969). This provision plays a crucial bridging role between signature and ratification, ensuring that States do not undermine the integrity or intended impact of a treaty during the transitional phase. It reflects the principle of good faith in international law, requiring States to act consistently with their expressed intentions. As Belinda (2024) observes, this obligation highlights that ratification is not merely procedural but carries substantive legal and normative significance, reinforcing the continuity between initial political endorsement and eventual legal commitment.

Ratification itself represents a decisive turning point in the lifecycle of a treaty, marking the stage at which a State transforms its preliminary engagement into a binding legal obligation under international law. In this sense, ratification serves both as a legal affirmation and a political

declaration, signalling a state's readiness to comply with and implement treaty provisions through domestic legal and policy frameworks (Belinda, 2024). Once ratified, a treaty becomes part of the State's international obligations, subjecting it to various accountability mechanisms, including monitoring by treaty bodies, periodic reporting requirements, and, in some cases, adjudication by international or regional courts (Aust, 2013; Hathaway, 2007). Ratification therefore not only formalises a State's commitment at the international level but also communicates to domestic actors such as courts, civil society organisations, and affected communities that the government has undertaken to align its governance structures with international human rights standards.

Beyond its legal implications, ratification also reflects a broader normative alignment with the values underpinning international human rights law. It signals to the global community that a State endorses the universal principles embodied in the treaty and is willing to engage in processes of scrutiny, dialogue, and accountability (Koh, 1997). In practical terms, ratification initiates a series of obligations that extend beyond formal compliance, including the harmonisation of domestic legislation, the training of public officials, and the establishment or strengthening of institutional frameworks necessary for effective implementation (Heyns & Viljoen, 2001). Thus, ratification is not simply a formal step in treaty-making but a catalyst for deeper processes of legal and institutional transformation.

Importantly, ratifying human rights treaties entails more than symbolic endorsement; it constitutes a concrete commitment to integrating international norms into domestic governance. This process involves aligning national legal systems with internationally recognised standards and embedding these standards within administrative and judicial practice. As Baumeister (2020) argues, States that have signed treaties are not only obligated to avoid actions that would undermine their purpose but also bear a broader responsibility to complete the ratification process

and give effect to the treaty's provisions. Ratification, in this sense, functions as a "legal conversion mechanism," transforming international expectations into enforceable domestic norms. This transformation contributes to the development of a more predictable and coherent international legal system, where commitments made at the global level are reflected in national practice.

However, the processes of ratification and domestication are deeply influenced by contextual factors, including political dynamics, cultural norms, and institutional capacity. These processes do not occur in isolation but are shaped by the broader socio-political environment in which States operate. D'Orsi (2021), in examining the domestication of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), highlights the challenges that arise when international human rights norms intersect with deeply rooted cultural practices. While the Protocol represents a significant advancement in promoting gender equality and women's rights, its implementation has encountered resistance in contexts where its provisions are perceived as conflicting with established social norms, particularly in relation to issues such as reproductive rights, marital relations, and gender roles.

This tension between international obligations and local cultural frameworks creates a complex environment in which human rights norms are often contested, adapted, or selectively implemented. As D'Orsi (2021) notes, effective domestication in such contexts requires more than legal reform; it necessitates broader processes of social change and normative reorientation. Successful implementation often depends on the interplay between international advocacy, domestic political will, and grassroots mobilisation. External actors, including international organisations, donor agencies, and regional bodies such as the African Union, can play a significant role by applying pressure, providing technical assistance, and enhancing the visibility

of human rights norms. At the same time, local actors including civil society organisations and community leaders are essential in translating these norms into culturally resonant practices. The legitimacy conferred by regional and global frameworks can further strengthen domestic reform efforts, helping to overcome resistance and facilitate gradual norm internalisation (d’Orsi, 2021; Mutua, 2001).

The commitment to ratify international human rights treaties represents a critical link between political intention and legal obligation within the international legal system. While the VCLT establishes a clear framework for this process, its practical realisation is shaped by a complex interplay of legal, political, and cultural factors. Ratification serves not only as a formal legal act but also as a transformative process that integrates international norms into domestic systems, thereby advancing the protection of human rights. At the same time, the challenges associated with domestication underscore the importance of context-sensitive approaches that recognise the diversity of legal systems and the need for sustained engagement at both the international and domestic levels.

In addition to formal legal commitments, the widespread ratification and implementation of international human rights treaties within a given region can play a transformative role in shaping shared normative standards. When a substantial number of states adopt and operationalise a treaty, the principles it embodies begin to acquire a degree of collective legitimacy, contributing to what scholars describe as “norm diffusion” (Sikkink, 2011). This process occurs as states influence one another through mechanisms such as peer pressure, reputational considerations, and the gradual development of legal precedent. As more states align their domestic systems with international standards, reluctant or hesitant states may feel compelled to follow suit in order to maintain credibility and legitimacy within the regional or international community. In the African

context, for example, the increasing ratification of the Maputo Protocol among African Union member states has strengthened its normative authority and reinforced regional accountability structures. Although challenges related to culture and institutional capacity remain, these developments demonstrate that sustained engagement, inclusive dialogue, and coordinated governance efforts can progressively overcome barriers to implementation.

At the same time, the relationship between formal ratification and societal acceptance of international norms is neither automatic nor linear. While ratification signifies a state's legal commitment, it does not necessarily guarantee public endorsement or behavioural change at the societal level. D'Orsi (2021) highlights that the incorporation of international human rights standards into domestic legal frameworks, particularly in African contexts, may encounter resistance where such norms conflict with deeply embedded cultural, religious, or traditional practices. Issues such as gender equality, reproductive rights, and the protection of marginalised groups often generate significant opposition in societies where patriarchal or customary norms remain dominant. In such situations, states may engage in what can be described as superficial or symbolic compliance ratifying treaties to enhance international standing while failing to implement their provisions effectively in practice. To address this gap, D'Orsi advocates for a more holistic approach to treaty implementation, one that incorporates public education, participatory legal reform, and culturally sensitive advocacy strategies. By contextualising human rights norms within local value systems and promoting dialogue among stakeholders, it becomes possible to foster gradual acceptance and meaningful internalisation of these norms. Regional institutions, including the African Commission on Human and Peoples' Rights, can further support this process by facilitating dialogue, monitoring compliance, and encouraging incremental reform (D'Orsi, 2021; Viljoen, 2012).

Expanding on this discussion, Klabbers (2019) provides a broader theoretical perspective on the role of international law in shaping state behaviour. He argues that international legal frameworks function not only as systems of binding rules but also as normative structures that exert social and political influence on states. In this sense, treaties perform a dual function: they create legal obligations upon ratification while simultaneously establishing standards of conduct that shape state behaviour even prior to formal incorporation into domestic law. This phenomenon, often referred to as “pre-ratification pressure,” is particularly evident in high-profile multilateral treaties, such as those addressing human rights or environmental protection. According to Klabbers, the effectiveness of such treaties depends significantly on the extent of state participation. Where ratification is limited, the normative force and practical impact of the treaty are weakened. Conversely, widespread ratification enhances both legitimacy and enforceability, reinforcing the expectation that states will conform to shared standards (Klabbers, 2019; Chinkin & Baetens, 2015).

Taken together, the insights of D’Orsi and Klabbers underscore that ratification should be understood not merely as a procedural requirement but as a gateway to broader normative and institutional transformation. While the legal obligations associated with treaties originate at the state level, their meaningful realisation depends on a complex interaction between political will, institutional capacity, and societal engagement. This highlights the importance of integrated implementation strategies that go beyond formal legal adoption to include civic education, cultural dialogue, and sustained advocacy. Such approaches are essential for bridging the gap between international commitments and domestic realities, ensuring that treaty obligations translate into tangible improvements in human rights protection.

The role of political will in this process cannot be overstated. Zwart (2019) examines the political dynamics that influence decisions to ratify or delay ratification of international treaties, arguing that such decisions are shaped by a combination of internal and external factors. Domestically, considerations such as regime type, leadership priorities, legislative support, and the influence of interest groups play a significant role. Internationally, factors including diplomatic pressure, geopolitical interests, donor expectations, and concerns about reputation also affect state behaviour. For instance, democratic states with active civil societies are generally more responsive to human rights norms, while authoritarian regimes may resist ratification in order to maintain control over domestic governance (Zwart, 2019; Simmons, 2009). Importantly, Zwart emphasises that genuine commitment to human rights extends beyond the symbolic act of signing or ratifying a treaty. It requires sustained political engagement, allocation of resources, institutional development, and public education to support effective implementation. In this regard, ratification can be seen as both a legal commitment and an expression of political intent.

In conclusion, the commitment of signatory states to ratifying international human rights treaties is a complex and multifaceted process shaped by legal, political, cultural, and institutional factors. While international legal instruments such as the Vienna Convention on the Law of Treaties (1969) provide a structured framework for treaty-making, the practical realisation of treaty obligations depends on a range of contextual dynamics. Signing a treaty reflects an initial willingness to engage with its provisions, but ratification represents a more definitive step that transforms this intention into binding legal obligation (Aust, 2013). As demonstrated by scholars such as Klabbers (2019) and D'Orsi (2021), effective implementation requires more than formal legal incorporation; it demands alignment between international norms and domestic realities, supported by political commitment, institutional capacity, and public participation. Strengthening

regional cooperation through mechanisms such as the African Union and the African Court on Human and Peoples' Rights, while simultaneously addressing cultural and societal barriers through dialogue and advocacy, is essential for ensuring that human rights treaties function as practical tools for advancing justice, dignity, and equality. In this way, international treaties can move beyond symbolic significance to become living instruments that shape governance and improve the lived experiences of individuals.

## **2.6 Duty of a Contracting State to Ratify a Treaty**

The obligation of a contracting State to proceed toward the ratification of a treaty constitutes a central element of international treaty law, particularly within the framework of human rights protection. The act of signing a treaty, while significant, does not in itself create binding legal obligations. Rather, it reflects a preliminary commitment grounded in good faith, signalling a State's intention to consider becoming formally bound at a later stage. Article 18 of the Vienna Convention on the Law of Treaties (VCLT) reinforces this position by imposing an interim obligation on signatory States to refrain from actions that would defeat the object and purpose of the treaty prior to ratification (United Nations, 1969). This provision underscores the seriousness attached to the period between signature and ratification, ensuring that States do not undermine treaty objectives while domestic approval processes are ongoing. Ratification, therefore, represents a decisive legal step through which a State formally consents to be bound and undertakes to give effect to the treaty's provisions within its domestic legal order. This process typically involves constitutional and legislative procedures that translate international commitments into enforceable domestic obligations, thereby operationalising the principle of

*pacta sunt servanda*, which requires that agreements freely entered into must be honoured in good faith (Aust, 2013).

Understanding why States choose to ratify treaties requires engagement with broader theoretical perspectives that explain State behaviour. Maestas (2024) identifies three key analytical lenses Rational Choice Theory, Institutionalism, and Constructivism each of which provides a distinct explanation for treaty ratification. From a Rational Choice perspective, States are viewed as strategic actors that make decisions based on cost-benefit calculations. Under this framework, ratification is more likely when the anticipated advantages such as enhanced international legitimacy, economic incentives, or strengthened diplomatic relationships outweigh potential disadvantages, including limitations on sovereignty or the need for policy reforms (Downs, Rocke, & Barsoom, 1996). This approach is particularly evident in contexts where treaty participation is linked to access to financial assistance, trade agreements, or international partnerships.

Institutionalist theory offers a complementary perspective by emphasising the role of domestic and international institutions in shaping State behaviour. According to this approach, the likelihood of ratification and effective implementation is significantly influenced by the strength and capacity of institutions within a State. Democratic governance structures, independent judiciaries, and active civil society organisations can create an enabling environment for treaty adoption by holding governments accountable and facilitating public participation in the ratification process (Moravcsik, 2000). At the international level, institutions such as United Nations bodies and regional mechanisms including the African Commission on Human and Peoples' Rights contribute to this dynamic by establishing monitoring systems, reporting requirements, and peer review processes that encourage compliance and reinforce normative expectations.

Constructivist theory, in contrast, shifts the focus from material incentives and institutional constraints to the role of norms, identities, and shared values in shaping State conduct. From this perspective, States may choose to ratify treaties as a way of affirming their identity as responsible members of the international community or aligning themselves with widely accepted moral standards (Finnemore & Sikkink, 1998). Ratification, therefore, can be understood as an expression of normative commitment rather than purely strategic calculation. This approach is particularly useful in explaining cases where States adopt treaties despite weak enforcement mechanisms or significant domestic costs, as the act of ratification may serve symbolic and reputational purposes, reinforcing a State's standing within the global community (Opp, 2021).

From a procedural standpoint, Article 11 of the VCLT outlines the various mechanisms through which States may express their consent to be bound by a treaty, with ratification being one of the most commonly utilised methods (United Nations, 1969). The ratification process typically unfolds in two interrelated stages. The first involves an internal review of the treaty to assess its compatibility with the State's constitutional and legislative framework. This stage may include parliamentary deliberations, consultations with stakeholders, and the preparation of legislative measures necessary to implement the treaty domestically (Aust, 2013). In some jurisdictions, additional procedures such as constitutional court review or referenda may be required, particularly where the treaty has significant legal or political implications. The second stage involves the formal deposit of an instrument of ratification with the designated depository, often the Secretary-General of the United Nations or another authority specified in the treaty. This act constitutes the State's definitive expression of consent and triggers the treaty's entry into force for that State in accordance with its provisions (Shaw, 2017).

Beyond its procedural dimensions, ratification carries substantial substantive implications for domestic governance. It obliges States to align their national legal systems with international standards, often necessitating legislative reform and institutional adjustments. In this sense, ratification functions not only as a legal act but also as a mechanism for policy transformation. Yunus, Sholeh, and Susilowati (2023) emphasise that effective treaty implementation depends on the systematic harmonisation of domestic laws with international obligations. This process requires the identification and amendment of conflicting legal provisions, particularly in sensitive areas such as human rights, gender equality, and freedom of expression. Moreover, the authors highlight the importance of embedding participatory and transparent practices within the ratification process. Engaging civil society organisations, academic experts, human rights institutions, and affected communities can enhance the legitimacy of treaty adoption and foster public trust in international commitments. Such inclusive approaches also help address concerns related to sovereignty and ensure that international obligations are understood and accepted within the domestic context.

The duty to ratify treaties represents a critical intersection between legal obligation, political decision-making, and normative commitment. While the VCLT provides a clear legal framework governing this process, the actual decision to ratify and implement treaties is shaped by a complex interplay of strategic interests, institutional capacities, and societal values. Ratification thus serves as both a legal mechanism for binding States to international obligations and a transformative process that integrates global norms into domestic legal and policy frameworks.

Participatory approaches to treaty ratification play a significant role in advancing the democratization of international law within domestic legal systems. By involving a wide range of

stakeholders including civil society organisations, academic institutions, policymakers, and the general public these processes create opportunities for awareness-raising, civic education, and meaningful dialogue around international obligations. Such engagement is particularly important in the field of human rights, where the effectiveness of treaties depends not only on formal legal adoption but also on societal acceptance and internalisation. Boyle and Chinkin (2007) argue that the successful integration of international legal standards into national systems is closely linked to the presence of both institutional capacity and societal consensus. Where ratification occurs without adequate public participation, there is a risk that treaty commitments will remain largely symbolic, lacking practical impact. Conversely, inclusive and participatory processes foster a sense of ownership among citizens, ensuring that treaty provisions are better understood, accepted, and implemented in ways that resonate with local realities. In this regard, while ratification is formally a legal act, its success is deeply contingent upon broader political will, institutional readiness, and the existence of a participatory governance culture.

Notwithstanding these benefits, States may exhibit reluctance in ratifying international treaties due to concerns about the potential erosion of national sovereignty. This tension is particularly pronounced in the context of human rights treaties, where compliance often requires substantial adjustments to domestic legal frameworks, policy priorities, and in some cases, entrenched cultural or social practices (Chesterman, 2008). International obligations may be perceived as external impositions that constrain domestic autonomy or challenge traditional authority structures, thereby generating resistance among political actors and sections of the public. In light of these concerns, scholars emphasise the need to strike a careful balance between preserving state sovereignty and fulfilling international commitments. Yunus, Sholeh, and Susilowati (2023) highlight that transparent, inclusive, and participatory ratification processes can

serve as an effective means of mitigating such tensions. By fostering open dialogue among government institutions, civil society, and the broader public, these processes enhance legitimacy and facilitate informed decision-making. They also promote a sense of national ownership over treaty obligations, reducing perceptions of external coercion and increasing the likelihood of sustained compliance.

Further insight into the legal dimensions of this transitional phase is provided by Rydberg (2024), who examines the obligations imposed on States between the moment of treaty signature and formal ratification, particularly under Articles 18 and 25 of the Vienna Convention on the Law of Treaties (VCLT). Article 18 establishes an interim obligation requiring signatory States to act in good faith by refraining from conduct that would defeat the object and purpose of the treaty (United Nations, 1969). Although this obligation is provisional, it carries significant normative force, ensuring that States do not undermine treaty objectives while domestic ratification processes are underway. Article 25 complements this provision by permitting the provisional application of treaties, or specific provisions thereof, where States have expressly agreed to do so. This mechanism allows States to begin implementing treaty obligations prior to formal ratification, thereby facilitating timely cooperation and reinforcing mutual confidence among parties (United Nations, 1969). According to Rydberg (2024), these provisions serve an important bridging function, maintaining continuity and integrity within the treaty regime during the interim period and preventing opportunistic behaviour that could weaken international legal commitments.

Taken together, these legal and practical considerations highlight the complexity of the ratification process. Ratification is not merely a formal procedural step but a multifaceted undertaking that combines legal obligation, political decision-making, and societal engagement. It involves rigorous domestic scrutiny, alignment of national laws with international standards, and

the formal communication of consent at the international level. While concerns relating to sovereignty and domestic implications may delay or complicate ratification, the framework established by international law particularly through Articles 11, 18, and 25 of the VCLT ensures that States remain accountable from the moment of signature. By examining ratification through legal, theoretical, and contextual lenses, it becomes clear that State behaviour in treaty law is shaped by an intricate interplay of normative expectations, institutional capacities, and political realities. This understanding underscores the importance of adopting inclusive, context-sensitive, and well-coordinated approaches to treaty ratification and implementation in order to ensure that international commitments translate into meaningful and sustainable outcomes.

## **2.7 Examination of Selected International Human Rights Treaties**

This section reviews the literature on selected human rights treaties, particularly the ICCPR, ICESCR, CEDAW, and CAT. The review aims to highlight the purpose of each treaty, the process of treaty ratification, and the implications for domestic incorporation by a State party.

### **2.7.1 International Convention on Civil and Political Rights**

The International Covenant on Civil and Political Rights (ICCPR) occupies a central and authoritative position within the international human rights framework, functioning as a key legal instrument for the protection and promotion of civil and political liberties across the globe. It establishes a comprehensive catalogue of rights that are considered fundamental to the dignity and autonomy of individuals, including freedom of thought, conscience, and religion; freedom of expression; the right to participate in public affairs and electoral processes; and access to information. These rights are not only essential to individual self-realisation but also form the bedrock of democratic governance and accountable political systems. As a legally binding treaty,

the ICCPR imposes clear obligations on States Parties, requiring them to uphold these rights in both law and practice. Its widespread ratification underscores its global significance, as it provides a shared normative framework against which state behaviour is assessed and measured within international human rights law (Batt, 2024; Smith & Lee, 2021).

The legal obligations of States under the ICCPR are primarily articulated in Part II of the Covenant, with Article 2 serving as the foundational provision that defines the scope and nature of these duties. Article 2 requires each State Party to respect and ensure the rights recognised in the Covenant for all individuals within its territory and subject to its jurisdiction. This provision establishes a dual-layered responsibility. On one hand, States are required to implement the Covenant's provisions immediately, meaning that they cannot delay enforcement or selectively apply rights based on internal priorities or constraints (Keller, 2019). On the other hand, States must refrain from actions that would infringe upon or unjustifiably restrict these rights, thereby fulfilling a negative obligation of non-interference (Chen, 2022). However, the obligation to "ensure" rights extends beyond mere restraint, requiring States to take affirmative steps to create conditions under which individuals can effectively exercise their civil and political freedoms. This dual obligation forms the cornerstone of State accountability under the ICCPR and provides the basis for both domestic enforcement and international monitoring (Batt, 2024; Smith & Lee, 2021).

The implementation of ICCPR rights therefore demands more than passive compliance; it requires active engagement by States in fostering an enabling environment for the realisation of these rights. While the duty to respect rights involves abstaining from interference, the duty to ensure rights necessitates proactive measures, including the establishment of legal frameworks, institutional mechanisms, and administrative systems that facilitate access to justice and protect individuals from violations. This broader interpretation of State responsibility aligns, to some

extent, with the approach adopted in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which explicitly emphasises the need for progressive realisation through deliberate and sustained action (United Nations, 1966). Although the ICCPR traditionally emphasises immediate obligations, its practical application reveals an inherent expectation that States will undertake positive measures to secure rights effectively.

Scholarly analysis has further refined the understanding of these obligations by distinguishing between different categories of State responsibility. Venier (2022), for instance, identifies three principal types of obligations that arise in the context of human rights treaties: obligations of immediate effect, which require prompt and enforceable action; obligations of conduct or due diligence, which require States to take reasonable and appropriate steps to prevent violations; and obligations of progressive implementation, which recognise that certain aspects of rights protection may evolve over time depending on available resources and institutional capacity. This classification provides a useful analytical framework for assessing State compliance, as it clarifies both the nature of the obligations and the expected timelines for their fulfilment (Venier, 2022; Keller, 2019). It also reinforces the understanding that human rights protection is an ongoing process that requires sustained commitment and adaptation.

A particularly important dimension of State responsibility under the ICCPR is the principle of due diligence, which expands the scope of obligations beyond direct State action. Under this principle, States are required to take all appropriate measures legislative, administrative, judicial, and otherwise to prevent, investigate, punish, and remedy violations of rights, even when such violations are committed by private individuals or entities (Shelton, 2020). This obligation recognises that threats to human rights may arise from non-state actors and that effective protection requires States to regulate and oversee private conduct. As a result, the duty to protect extends to

areas such as domestic violence, discrimination by private actors, and abuses by corporations, thereby broadening the reach of the ICCPR's protective framework (Smith & Garcia, 2022).

Empirical research further highlights the significance of these obligations in promoting democratic governance and social stability. Sari and Alaslan (2023), through a qualitative examination of international human rights mechanisms, emphasise the role of treaty-monitoring bodies such as the Human Rights Committee in ensuring compliance with the ICCPR. Their analysis demonstrates that the rights enshrined in the Covenant including the rights to life, liberty, and personal security; freedoms of expression, assembly, and association; and participation in public affairs are fundamental to the functioning of democratic societies. These rights not only safeguard individual freedoms but also serve as indicators of good governance, accountability, and the rule of law. Consequently, the ICCPR operates both as a legal instrument imposing binding obligations and as a normative framework guiding State behaviour and evaluating performance within the international community (Sari & Alaslan, 2023).

In addition to its legal and institutional dimensions, the ICCPR also plays a significant role in shaping the broader discourse on human rights by influencing domestic legal systems, judicial interpretation, and policy development. Courts in many jurisdictions increasingly draw upon ICCPR provisions when interpreting constitutional rights, while policymakers rely on its standards when designing legal reforms. This dynamic interaction between international norms and domestic practice further reinforces the Covenant's role as a living instrument that evolves through interpretation, implementation, and engagement across different legal systems.

Moreover, Sari and Alaslan underscore that the practical effectiveness of civil and political rights depends significantly on two interrelated factors: the willingness of States to fulfil their due diligence obligations and the strength of international accountability mechanisms tasked with

monitoring compliance. While States remain the primary duty-bearers, the presence of external oversight structures introduces an additional layer of scrutiny that can reinforce domestic enforcement efforts. The interaction between national implementation systems and international supervisory bodies creates a dynamic framework in which rights are not merely codified but are progressively realised in practice. This dual-layered approach ensures that human rights protections are supported both internally, through domestic legal and institutional mechanisms, and externally, through international monitoring and pressure. In this way, civil and political rights move beyond formal recognition and become embedded within governance systems and everyday societal practices (Sari & Alaslan, 2023; Brown, 2021). Such an arrangement reflects the inherently complex nature of human rights protection, which requires coordinated action across multiple levels of governance to effectively prevent violations by both State and non-State actors.

Alaslan (2023) further develops this perspective by examining the complementary roles played by international human rights mechanisms in reinforcing State accountability. While States bear the primary responsibility for upholding rights within their jurisdictions, international bodies serve as essential actors in situations where domestic systems are ineffective, unwilling, or unable to provide adequate protection. His analysis spans a range of mechanisms, including regional human rights courts, treaty-monitoring bodies, and special procedures such as rapporteurs appointed by international organisations. Each of these mechanisms performs a distinct yet interconnected function within the broader human rights architecture. For instance, regional judicial bodies such as the European Court of Human Rights and the Inter-American Court of Human Rights exercise adjudicative authority by issuing binding decisions that require States to remedy violations and, in some cases, reform domestic laws or practices. In contrast, treaty bodies such as the Human Rights Committee primarily operate through supervisory and interpretative

functions, reviewing periodic State reports, issuing concluding observations, and providing authoritative guidance on the interpretation of treaty provisions (Alaslan, 2023).

This dual institutional structure generates a complementary system in which adjudicative mechanisms provide enforceability and direct remedies for victims, while monitoring bodies contribute to long-term compliance through dialogue, transparency, and normative development. According to Alaslan, this interplay is essential for strengthening the overall effectiveness of international human rights law, as it allows for both immediate intervention in cases of violation and sustained engagement aimed at improving institutional capacity and legal frameworks within States. Additionally, these mechanisms contribute to the broader process of norm diffusion by encouraging States to align their domestic laws with international standards and by empowering civil society actors to demand accountability and reform (Alaslan, 2023; Smith & Johnson, 2021). Through these processes, international human rights norms are gradually internalised within domestic systems, enhancing their practical impact.

Despite these strengths, Alaslan (2023) identifies several challenges that continue to limit the effectiveness of international human rights mechanisms. One key issue is the fragmentation of institutional frameworks, where limited coordination among various international bodies may lead to inconsistencies in interpretation or weakened enforcement capacity. Furthermore, political considerations such as State willingness to cooperate, geopolitical dynamics, and diplomatic pressures can significantly influence the functioning of these mechanisms. In some instances, States may resist compliance with international decisions or selectively engage with monitoring processes, thereby undermining the effectiveness of the system. These challenges highlight the need for stronger institutional linkages, improved coordination among international bodies, and more nuanced analysis of the political contexts within which human rights mechanisms operate

(Alaslan, 2023; Davis, 2022). Addressing these issues is essential for enhancing both the legitimacy and operational capacity of international human rights frameworks.

Within this broader system, the Human Rights Committee established under the ICCPR plays a particularly significant role in overseeing State compliance. Batt (2024) provides a detailed examination of the Committee's functions, highlighting its central role as a monitoring body responsible for evaluating how States implement their obligations under the Covenant. One of its primary tools is the periodic reporting procedure, through which States are required to submit detailed accounts of legislative, judicial, and administrative measures taken to give effect to ICCPR rights. These reports form the basis for constructive dialogue between the Committee and State representatives, allowing for the identification of gaps, challenges, and areas requiring improvement. Through this process, the Committee not only assesses compliance but also provides guidance aimed at strengthening domestic implementation.

In addition to its reporting function, the Committee also has the authority to consider individual communications submitted by individuals or groups alleging violations of rights protected under the ICCPR, provided the State concerned has accepted this procedure through the Optional Protocol. This complaints mechanism represents a critical avenue for redress, enabling victims to seek accountability at the international level when domestic remedies are unavailable or ineffective. It also enhances the normative authority of the Covenant by reinforcing the principle that States can be held accountable for violations beyond their borders (Batt, 2024; United Nations, 1966).

Batt (2024) further elaborates on the substantive rights protected under the ICCPR, noting that they collectively form a comprehensive framework for safeguarding human dignity and supporting democratic governance. These include rights such as self-determination, privacy,

freedom of thought and expression, peaceful assembly, and participation in public affairs. The Covenant also protects individuals from arbitrary interference in their private lives, a protection that has been developed through the interpretative work of the Human Rights Committee. Although the ICCPR does not explicitly articulate a standalone right to privacy, Article 17 has been interpreted to encompass protections against unlawful interference with privacy, family, home, and correspondence. Through its General Comments and jurisprudence, the Committee has progressively clarified the scope of these protections, demonstrating how treaty interpretation can evolve to address emerging challenges and contexts (Batt, 2024; United Nations Human Rights Committee, 2020). This evolving interpretative approach illustrates how the ICCPR functions not only as a static legal instrument but also as a dynamic framework that adapts to changing societal realities through ongoing engagement between States, monitoring bodies, and other stakeholders.

Building on this broader understanding of the ICCPR's role, Bidin and Khan (2020) offer a valuable regional perspective by examining how Malaysia's dual legal system comprising both civil and Syariah frameworks aligns with obligations under the International Covenant on Civil and Political Rights (ICCPR). Their analysis highlights that the Covenant's overarching purpose is to ensure the universal protection of civil and political rights, a principle clearly articulated in its Preamble. The Preamble affirms that all individuals are inherently entitled to fundamental freedoms, including the right to live without fear and deprivation. Importantly, Bidin and Khan emphasise that the effective enjoyment of civil and political rights is closely interconnected with economic, social, and cultural rights, thereby reinforcing the principle of the indivisibility and interdependence of human rights. This perspective challenges the traditional compartmentalisation of rights and instead promotes a holistic understanding in which different categories of rights mutually reinforce one another.

Their study further underscores the ICCPR's role as a foundational legal instrument that obliges States to adopt a range of measures legislative, administrative, and judicial to ensure the protection and enforcement of the rights it guarantees. This obligation extends beyond mere recognition of rights to include the establishment of effective mechanisms for redress in cases of violation. In this sense, the Covenant imposes both preventive and corrective responsibilities on States, requiring them not only to avoid infringing rights but also to provide remedies when violations occur (Bidin & Khan, 2020; United Nations, 1966). Such a framework strengthens the rule of law by ensuring that individuals have access to justice and that State authorities are held accountable for their actions.

Although international human rights instruments do not always explicitly articulate a standalone right of access to courts, the principle of equality before the law and before judicial bodies is deeply embedded within the international human rights regime. This principle serves as a cornerstone of fair trial guarantees and ensures that all individuals, regardless of their socio-economic or political status, are entitled to seek justice on equal terms. Bidin and Khan (2020) highlight that this notion of equality before courts and tribunals is reflected across multiple human rights instruments, reinforcing the importance of judicial accessibility as a critical component of rights protection. By ensuring that courts remain open and impartial forums for dispute resolution, this principle supports the enforcement of rights and contributes to the broader objective of maintaining justice and accountability within legal systems.

A key illustration of this principle can be found in Article 14(3)(d) of the ICCPR, which explicitly safeguards the rights of individuals accused of criminal offences. This provision guarantees that an accused person has the right to be present during trial proceedings, to defend themselves either personally or through legal representation of their choosing, and to be informed

promptly of their rights, particularly where they lack the means to secure legal counsel. These protections are fundamental to ensuring fairness in criminal proceedings and preventing miscarriages of justice. They also underscore the importance of legal aid as a necessary component of access to justice, requiring States to take steps to ensure that individuals who cannot afford representation are provided with adequate legal assistance (Bidin & Khan, 2020; United Nations, 1966). Through such provisions, the ICCPR establishes minimum procedural standards that uphold human dignity and reinforce confidence in judicial processes.

Bidin and Khan (2020) also provide important historical context regarding the development of the ICCPR, noting that it was adopted by the United Nations General Assembly in 1966 and subsequently opened for signature and ratification by Member States. The Covenant entered into force on 23 March 1976, following the ratification threshold required for its activation, marking a significant milestone in the evolution of international human rights law. The distinction between signature and ratification is particularly important in this context. While signature indicates a State's preliminary intention to consider becoming bound by the treaty, ratification represents a definitive legal commitment to implement its provisions within domestic legal and institutional frameworks. This process reflects the transition from political endorsement to binding legal obligation, reinforcing the seriousness of treaty participation (Bidin & Khan, 2020; United Nations, 1966).

In addition to ratification, the ICCPR framework allows States to enter reservations and declarations, which serve as mechanisms for adapting treaty obligations to domestic contexts. Reservations enable States to exclude or modify the legal effect of specific provisions, while declarations clarify how certain obligations are interpreted within the national legal system. Although these mechanisms provide flexibility, they also raise important concerns regarding the

universality and consistency of human rights protections. Excessive or incompatible reservations may undermine the integrity of the treaty by limiting its application and weakening its normative force. Consequently, international law imposes restrictions on the use of reservations, requiring that they must not be incompatible with the object and purpose of the treaty (United Nations Treaty Collection, n.d.; Bidin & Khan, 2020).

A reservation, therefore, can be understood as a formal statement through which a State expresses its intention not to be bound by specific provisions of a treaty. Such declarations often reflect domestic legal, cultural, or policy considerations, allowing States to reconcile international obligations with internal frameworks. However, the permissibility of reservations is subject to the overarching principle that they must not defeat the fundamental aims of the treaty. This safeguard, grounded in the Vienna Convention on the Law of Treaties, ensures that the essential objectives of human rights instruments are preserved and that States cannot selectively undermine core protections through broad or incompatible exclusions (Vienna Convention on the Law of Treaties, 1969; Bidin & Khan, 2020). Through this lens, the ICCPR emerges not only as a legal instrument but also as a flexible yet principled framework that balances universality with contextual adaptability, while maintaining the integrity of its core human rights objectives.

The Human Rights Committee functions as the principal supervisory body tasked with monitoring the implementation of the International Covenant on Civil and Political Rights (ICCPR) by State Parties. Its role is central to the global human rights framework, particularly in safeguarding key civil and political liberties such as freedom of expression, freedom of religion or belief, peaceful assembly, and participation in public life. Through its institutional mandate, the Committee performs several interrelated functions that collectively contribute to the promotion and protection of these rights. Among its primary responsibilities is the examination of periodic

reports submitted by States, which detail legislative, judicial, and administrative measures undertaken to give effect to the Covenant. In addition, the Committee issues General Comments, which serve as authoritative interpretative tools clarifying the scope, meaning, and application of specific rights within the ICCPR framework. Another critical function involves the consideration of individual communications, whereby individuals or groups may submit complaints alleging violations of their rights, provided the relevant State has accepted this procedure. Through these mechanisms, the Committee not only monitors compliance but also contributes to the progressive development of international human rights law by adapting normative standards to evolving societal and legal contexts (United Nations Human Rights Committee, 2021; Bidin & Khan, 2020).

Notwithstanding these significant contributions, several structural and practical challenges continue to affect the Committee's effectiveness. Bidin and Khan (2020) note that a considerable number of States fail to comply with their reporting obligations in a timely manner, with delays in submitting initial and periodic reports undermining the Committee's ability to conduct consistent and up-to-date assessments. This reporting gap weakens the monitoring system and limits opportunities for constructive dialogue between States and the Committee. Furthermore, the jurisdiction of the Committee in handling individual complaints remains constrained, as a notable proportion of States have not ratified the Optional Protocol that enables this procedure. As a result, the Committee's capacity to address alleged violations at the individual level is uneven across jurisdictions. Even where recommendations are issued, implementation remains inconsistent, with some States demonstrating reluctance or significant delays in acting upon the Committee's concluding observations. Despite these limitations, the existence of an independent international body with the authority to review State conduct and provide oversight represents a major

advancement in the institutionalisation of human rights accountability at the global level (Bidin & Khan, 2020; Nowak & McArthur, 2019).

The reporting and monitoring process is further enriched by the active participation of civil society actors, particularly non-governmental organisations (NGOs). These organisations often submit alternative or “shadow” reports that complement official State submissions by providing independent assessments of human rights conditions on the ground. Such contributions are instrumental in ensuring a more balanced and comprehensive evaluation of State performance, as they may highlight issues that are underreported or omitted in official accounts. This multi-source reporting approach enhances transparency and strengthens the credibility of the review process (Bidin & Khan, 2020). Encouragingly, a significant proportion of States have accepted the Committee’s competence to receive individual complaints under the Optional Protocol, reflecting a growing recognition of the importance of international accountability mechanisms. In several instances, States have responded constructively to the Committee’s recommendations, incorporating them into legislative reforms and policy initiatives aimed at improving human rights protections domestically (Nowak & McArthur, 2019; Bidin & Khan, 2020).

Expanding on the influence of treaty bodies, Schoner (2024) provides an in-depth analysis of the practice commonly referred to as “naming and shaming” within United Nations human rights mechanisms. His study highlights that treaty bodies, including the Human Rights Committee, operate as quasi-judicial institutions that lack direct enforcement powers such as sanctions or coercive measures. Instead, their influence is largely normative and reputational. By publicly identifying instances of non-compliance and issuing critical findings, these bodies exert indirect pressure on States to align their conduct with international standards. Through the examination of individual complaints and State reports, treaty bodies generate authoritative

determinations that can be leveraged by civil society and other actors to hold governments accountable. According to Schoner (2024), this process enhances the legitimacy of advocacy efforts by grounding them in internationally recognised legal assessments.

Civil society organisations play a crucial role in amplifying the effects of this reputational pressure. By disseminating findings, mobilising public opinion, and engaging international audiences, these actors help ensure that instances of non-compliance gain visibility beyond diplomatic circles. Schoner (2024) observes that this dynamic is particularly significant in the context of restrictive or authoritarian regimes, where exposure of human rights violations can lead to increased international scrutiny. Governments in such contexts may respond to reputational risks especially those affecting diplomatic relations, foreign investment, or global standing by making adjustments to their policies or practices. However, the effectiveness of this approach is not without limitations. Schoner cautions that “naming and shaming” often produces short-term, reactive responses driven by the desire to mitigate reputational damage rather than fostering deep, structural reforms. As such, while this strategy can prompt immediate behavioural changes, its capacity to generate long-lasting improvements in human rights governance remains uncertain.

Nevertheless, the involvement of United Nations treaty bodies as impartial and authoritative actors significantly enhances the credibility of these processes. Their findings provide a foundation upon which civil society, international organisations, and other stakeholders can build sustained advocacy efforts. In this way, even in the absence of direct enforcement mechanisms, the combined effect of monitoring, reporting, and reputational accountability contributes meaningfully to the broader project of advancing human rights compliance and strengthening global governance frameworks (Schoner, 2024; Hafner-Burton, 2008).

Moreover, the phenomenon of “naming and shaming” must be understood within the broader scholarly discourse surrounding the effectiveness of international human rights mechanisms. Although treaty bodies generally lack binding enforcement powers, their influence is not insignificant. Instead, their authority often operates through softer forms of power, particularly through public exposure, reputational consequences, and international scrutiny. Scholars such as Thomas Risse, Stephen Ropp, and Kathryn Sikkink (2013) argue that these indirect mechanisms form a critical component of global human rights governance, especially in a decentralized international system where coercive enforcement is limited. In this regard, “naming and shaming” functions as a strategic tool that leverages reputational incentives to encourage compliance.

This approach closely corresponds with the “boomerang model” advanced by Margaret Keck and Kathryn Sikkink (1998), which explains how domestic actors, when constrained within their own political systems, may appeal to international institutions and transnational networks to exert pressure on their governments. Through this process, international scrutiny is redirected back onto the State, creating external pressure that complements internal advocacy efforts. Schoner’s findings reinforce this perspective by demonstrating how legal mechanisms, political considerations, and social mobilisation intersect to influence State behaviour. The study highlights that sustained engagement from multiple actors including international institutions, civil society organisations, and affected individuals is essential in advancing meaningful human rights protection.

At the same time, the politicisation of certain monitoring mechanisms, particularly the Universal Periodic Review (UPR), introduces additional complexity into this landscape. States participating in the UPR process may attempt to shape narratives about their human rights

performance by selectively presenting information or downplaying shortcomings. Despite these tendencies, the credibility of United Nations treaty bodies remains relatively strong due to their institutional design and reliance on independent expertise. As noted by Valentina Carraro (2019), the recommendations issued by treaty body experts are widely regarded as more objective and analytically rigorous than State-submitted reports. This perception stems from the fact that these bodies are composed of independent specialists with extensive knowledge and experience in human rights law. Their assessments are therefore viewed as impartial and authoritative, enhancing their normative weight and increasing the likelihood that States will respond to their findings.

Beyond monitoring and evaluation, treaty bodies also play a crucial role in the development and dissemination of human rights norms. By articulating clear standards and interpretative guidance, they contribute to the codification of rights and provide benchmarks against which State conduct can be assessed. This normative clarity is essential for empowering civil society organisations and advocacy groups, as it equips them with legally grounded tools to challenge violations and demand accountability. According to Cosette Creamer and Beth Simmons (2020), the review processes conducted by treaty bodies extend beyond formal assessment; they actively engage domestic bureaucracies by requiring detailed reporting, data collection, and institutional reflection. This engagement fosters transparency and draws attention from key actors such as national courts, the media, and oversight institutions, thereby amplifying the impact of international scrutiny.

Furthermore, the practice of self-reporting by States has been significantly shaped by what Creamer and Simmons (2020) describe as “elite socialisation.” This concept refers to the process through which government officials internalise international norms through repeated interaction with treaty bodies and participation in reporting mechanisms. Over time, these interactions create

expectations of appropriate behaviour, encouraging State actors to align their policies with international standards not merely out of obligation, but also due to a desire for legitimacy and acceptance within the global community. This socialisation process operates both externally and internally: externally, through international pressure and expectations, and internally, through the influence of domestic elites who advocate for compliance.

As a result, non-compliance is increasingly associated with reputational costs, not only at the international level but also within domestic political and institutional contexts. The combined effect of reputational incentives, expert evaluation, and normative socialisation contributes to a gradual internalisation of human rights standards within State institutions. This process fosters sustained engagement with international obligations and encourages the integration of human rights principles into governance structures and policy frameworks.

Taken together, these dynamics illustrate that while international human rights monitoring systems may face political and structural limitations, their impact should not be underestimated. The interplay between expert oversight, public accountability, and socialisation mechanisms provides a multifaceted approach to promoting compliance and strengthening the protection of civil and political rights across diverse contexts.

### **2.7.2 International Convention on Economic, Social and Cultural Rights**

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is widely recognised as a cornerstone of the contemporary international human rights framework. Adopted by the United Nations General Assembly on 16 December 1966 and entering into force on 3 January 1976, the Covenant forms part of what is collectively known as the “International Bill of Human Rights.” This foundational body of law comprises three principal instruments: the Universal Declaration of Human Rights (UDHR) of 1948, the International Covenant on Civil and

Political Rights (ICCPR), and the ICESCR itself. Together, these instruments establish the normative and legal architecture that underpins global efforts to promote and protect human rights. While the UDHR initially articulated a comprehensive catalogue of rights in a non-binding declaratory form, the subsequent adoption of the ICCPR and ICESCR transformed these principles into legally enforceable obligations, thereby strengthening their practical application within international law.

The adoption of the ICESCR marked a critical moment in the evolution of human rights discourse, particularly in addressing long-standing debates concerning the status of economic, social, and cultural rights. In the formative years of the United Nations human rights system, significant disagreement existed among States regarding whether such rights should be treated as legally binding commitments or merely aspirational objectives. Critics often argued that these rights required extensive state resources and long-term policy planning, making them difficult to enforce in the same manner as civil and political rights. Despite these concerns, the adoption of the ICESCR signified a decisive shift toward recognising economic, social, and cultural rights as integral components of human dignity and social justice. In doing so, the international community affirmed that civil and political freedoms cannot be fully realised in the absence of adequate socio-economic conditions, thereby reinforcing the interconnected nature of all categories of rights.

A defining contribution of the ICESCR lies in its explicit affirmation of the principles of indivisibility, interdependence, and universality of human rights. Rather than treating different categories of rights as separate or hierarchical, the Covenant promotes an integrated approach in which each right supports and enhances the others. For instance, access to education, healthcare, and adequate living conditions plays a fundamental role in enabling individuals to exercise civil and political freedoms effectively. Without these foundational conditions, rights such as freedom

of expression, participation in governance, and equality before the law may remain largely theoretical. By embedding these socio-economic guarantees within a binding legal framework, the ICESCR reinforces the idea that all human rights are of equal importance and must be protected collectively within both international and domestic legal systems (Alston & Goodman, 2013).

Beyond its normative significance, the ICESCR has had a profound influence on the development of national legal and constitutional systems across the world. The Covenant serves as a reference point for States seeking to incorporate economic and social rights into their domestic frameworks, guiding the formulation of laws, policies, and institutional practices. Many modern constitutions reflect the influence of the ICESCR by explicitly recognising rights related to education, labour, social protection, and healthcare. In this regard, the Covenant has played a transformative role in shaping how governments conceptualise their responsibilities toward citizens, particularly in relation to social welfare and equitable development. Its impact extends beyond legal codification to influence broader governance strategies aimed at improving living standards and reducing structural inequalities.

Furthermore, the ICESCR provides a comprehensive framework for evaluating State performance in advancing social justice and inclusive development. By articulating rights related to employment, housing, health, and education, the Covenant establishes internationally recognised benchmarks against which national policies can be assessed. This framework encourages States to adopt legislative, administrative, and policy measures that progressively improve social conditions and address disparities in access to resources and opportunities. As such, the ICESCR not only contributes to the development of international legal norms but also offers practical guidance for policymakers seeking to align domestic governance with global human rights standards.

Taken together, these developments highlight the enduring relevance of the ICESCR within the broader human rights architecture. The Covenant embodies the understanding that the protection of human dignity requires more than freedom from state interference; it also demands the provision of conditions that enable individuals to lead dignified and meaningful lives. Its continued influence is evident in both international legal discourse and national policy frameworks, particularly in contexts where States are working to strengthen the domestic implementation of human rights obligations.

The ICESCR recognises an extensive range of economic, social, and cultural rights that are essential for promoting human dignity and ensuring social well-being. These rights reflect a shift from a purely negative conception of rights focused on limiting state interference to a more expansive approach that emphasises the role of the State in creating enabling conditions for human development. The Covenant therefore establishes a broad and integrated framework addressing key dimensions of human welfare. Among the rights protected are the right to work, which guarantees access to employment opportunities, and the right to just and favourable conditions of work, which ensures fair wages, safe working environments, and reasonable working hours. The Covenant also affirms the right to form and join trade unions, recognising the importance of collective organisation in protecting labour interests, as well as the right to social security, which provides a safety net against economic hardship.

In addition, the ICESCR emphasises the central role of the family as the fundamental unit of society, requiring States to provide protection and support to ensure its stability and well-being. It further guarantees the right to an adequate standard of living, encompassing access to sufficient food, appropriate clothing, and adequate housing. These provisions underscore the importance of addressing basic human needs as a prerequisite for broader social and economic participation. By

recognising these rights within a binding international framework, the ICESCR reinforces the principle that social and economic protections are indispensable to the stability, resilience, and prosperity of both individuals and communities.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) places particular emphasis on rights that are central to human development, social inclusion, and the enhancement of individual capabilities. Among these, Article 12 recognises the right of every person to attain the highest possible standard of physical and mental health. This right is not limited to the provision of healthcare services alone but extends to the broader social determinants that influence health outcomes. These include access to clean and safe drinking water, adequate sanitation systems, sufficient nutrition, safe working conditions, and a healthy environment. By adopting this expansive interpretation, the Covenant acknowledges that health is shaped by a wide range of socio-economic and environmental factors, thereby requiring States to address structural conditions that affect well-being.

Similarly, the Covenant accords significant importance to education, as reflected in Articles 13 and 14, which establish the right to accessible, inclusive, and quality education for all. Education is framed not merely as a service but as a transformative right that contributes to the development of human personality, strengthens respect for human rights, and enables individuals to participate meaningfully in social, economic, and political life. It is widely recognised as a catalyst for empowerment and social mobility, equipping individuals with the knowledge and skills necessary to improve their circumstances and contribute to national development. As such, education serves as both an end in itself and a means through which other rights can be realised, reinforcing its central role within the broader human rights framework (Langford, 2020; Young, 2021).

In addition to these developmental rights, the Covenant also recognises the importance of cultural rights as an essential dimension of human dignity and identity. Article 15 affirms the right of individuals and communities to participate in cultural life, to benefit from scientific progress, and to enjoy protection for the moral and material interests arising from their intellectual and creative outputs. These provisions highlight the significance of cultural expression, creativity, and innovation in fostering human development and societal advancement. By including cultural rights alongside economic and social guarantees, the ICESCR adopts a holistic understanding of human well-being that goes beyond material conditions to encompass identity, heritage, and intellectual fulfilment. This recognition underscores the idea that human dignity is intrinsically linked not only to economic security but also to the ability of individuals and communities to preserve, express, and develop their cultural values and traditions (Koch, 2023).

Taken together, the rights enshrined in the ICESCR reflect a comprehensive and integrated conception of human rights, one that emphasises the interdependence between economic security, social welfare, and cultural participation. The Covenant reinforces the principle that civil and political freedoms cannot be fully realised in the absence of adequate socio-economic conditions. For instance, meaningful participation in political processes may be significantly constrained where individuals lack access to education, stable employment, or basic standards of living. In this sense, economic, social, and cultural rights provide the foundational conditions necessary for the effective exercise of all other rights. Contemporary scholarship increasingly highlights this interrelationship, advocating for the integration of socio-economic rights into national legal systems and policy frameworks as a means of promoting sustainable development and social justice (Langford, Cousins & Dugard, 2022; Saul, Kinley & Mowbray, 2024).

Within this broader context, the ICESCR functions not only as a catalogue of rights but also as a guiding normative framework for States in advancing inclusive development and reducing inequality. By obligating governments to take steps toward the progressive realisation of these rights, the Covenant establishes a benchmark against which national policies, programmes, and practices can be evaluated. This framework encourages States to adopt long-term strategies that prioritise human well-being, equitable resource distribution, and social protection, thereby aligning governance with the broader objectives of the international human rights system.

A distinctive feature of the ICESCR is the principle of progressive realisation, articulated in Article 2(1), which recognises that the full implementation of economic, social, and cultural rights may require time, institutional capacity, and resource mobilisation. This provision obliges States Parties to take deliberate steps, both individually and through international cooperation, to achieve the gradual realisation of these rights using the maximum of available resources. The principle reflects an understanding of the diverse economic and developmental contexts within which States operate, acknowledging that immediate fulfilment of all obligations may not be feasible in every situation. As such, progressive realisation introduces a degree of flexibility while preserving the binding nature of State commitments. It represents a pragmatic approach that balances the aspiration for universal rights protection with the practical realities of resource constraints and development disparities (Craven, 1995; Saul, Kinley & Mowbray, 2014).

However, this flexibility does not permit indefinite postponement or complacency. The Covenant requires that States undertake concrete, deliberate, and targeted actions aimed at advancing the enjoyment of rights. Governments are expected to demonstrate continuous progress and are prohibited from adopting retrogressive measures that would undermine existing levels of protection. In practice, this entails the implementation of comprehensive policies and programmes

across sectors such as education, healthcare, housing, and employment, supported by appropriate legal and institutional frameworks. The obligation to utilise the “maximum of available resources” further reinforces the expectation that States must prioritise these rights within their national budgets and development strategies. Scholars have noted that this requirement introduces an important dimension of accountability, enabling international monitoring bodies and civil society actors to evaluate whether States are genuinely committed to fulfilling their obligations (Langford, 2020; Nolan, 2022).

In addition to progressive realisation, the ICESCR also imposes a set of immediate obligations that are binding on all States Parties regardless of their level of economic development. Among the most significant of these is the duty to guarantee that all rights under the Covenant are exercised without discrimination. Article 2(2) explicitly prohibits discrimination on grounds such as race, sex, language, religion, national origin, or social status, thereby reinforcing equality as a fundamental principle of international human rights law. These immediate obligations also require States to take initial steps toward implementation, including the adoption of legislative measures, the establishment of effective institutions, and the development of policies aimed at promoting social equity and inclusion. Unlike progressive obligations, these duties must be fulfilled without delay, ensuring that the foundational principles of equality and non-discrimination are upheld from the outset (Saul, Kinley & Mowbray, 2014).

The interpretation and practical application of obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) have been significantly shaped by the work of the Committee on Economic, Social and Cultural Rights (CESCR), which serves as the primary monitoring body for the Covenant. Through its supervisory mandate, the Committee examines periodic reports submitted by States Parties and issues concluding observations that assess

progress, identify areas of concern, and provide recommendations for improving compliance. Beyond this reporting function, the CESCR has played a crucial interpretative role by issuing General Comments, which offer detailed guidance on the meaning, scope, and implementation of specific rights contained in the Covenant. These General Comments have become an essential source of authoritative interpretation, helping to translate broad treaty provisions into more concrete and actionable standards for States.

For instance, General Comment No. 3 provides foundational guidance on the nature of States' obligations, particularly in relation to the principle of progressive realisation. It emphasises that even where resources are constrained, States must demonstrate that they are taking deliberate, concrete, and targeted steps toward fulfilling their obligations. Importantly, the Committee introduces the concept of "minimum core obligations," which requires States to guarantee at least a basic level of each right regardless of resource limitations. This concept reinforces the idea that certain essential aspects of economic, social, and cultural rights are non-negotiable and must be prioritised in all contexts.

Further clarification of Covenant rights has been achieved through additional General Comments issued by the CESCR. General Comment No. 12, for example, elaborates on the right to adequate food by outlining State responsibilities to ensure that individuals have continuous physical and economic access to sufficient, safe, and nutritious food. Similarly, General Comment No. 14 provides a comprehensive interpretation of the right to health by identifying four key dimensions: availability, accessibility, acceptability, and quality of health services. These interpretative developments have been instrumental in transforming the Covenant from a broad framework of principles into a more detailed body of normative standards capable of guiding national legislation, policy formulation, and judicial decision-making. Through this evolving

jurisprudence, the CESCR has significantly strengthened the legal and practical relevance of economic, social, and cultural rights at both international and domestic levels (Young, 2021; Koch, 2023).

The primary mechanism for monitoring compliance with the ICESCR remains the State reporting system administered by the CESCR. Under this framework, States Parties are required to submit periodic reports outlining the legislative, administrative, judicial, and policy measures adopted to implement Covenant rights. These reports serve as a basis for constructive dialogue between the Committee and State representatives, during which progress is assessed, challenges are identified, and recommendations are formulated. This process promotes transparency and encourages governments to engage in regular self-assessment of their human rights performance. By requiring States to account for their actions, the reporting system fosters accountability and can stimulate policy reform at the national level, particularly where deficiencies in implementation are highlighted (Saul, Kinley & Mowbray, 2014).

The monitoring framework of the ICESCR has been further enhanced through the adoption of the Optional Protocol to the ICESCR in 2008, which entered into force in 2013. This instrument introduced additional mechanisms aimed at strengthening accountability, most notably the individual communications procedure. Under this procedure, individuals or groups who allege violations of their rights under the Covenant may submit complaints to the CESCR after exhausting available domestic remedies. This represents a significant advancement in the justiciability of economic, social, and cultural rights, as it provides victims with access to international review mechanisms. In addition, the Optional Protocol empowers the Committee to initiate inquiries into grave or systematic violations of Covenant rights in certain circumstances. These developments have expanded the enforcement landscape and reinforced the normative

authority of economic and social rights within the international human rights system (Langford, 2020; Nolan, 2022).

Uganda's ratification of the ICESCR in 1987 marked an important step in its engagement with international human rights law, formally committing the State to respect, protect, and fulfil the rights recognised in the Covenant. Ratification reflects Uganda's acceptance of these obligations at the international level and signals an intention to align domestic legal and policy frameworks with international standards. However, the realisation of these obligations within Uganda is shaped by the country's dualist legal system, which governs the relationship between international law and domestic law. In such systems, international treaties do not automatically acquire legal force within the domestic legal order upon ratification. Instead, they must be incorporated through legislative or constitutional processes before they can be directly applied or enforced by national courts (Viljoen, 2019).

This dualist orientation has significant implications for the domestication and enforcement of ICESCR rights in Uganda. While ratification establishes binding obligations under international law, their practical effect at the national level depends on the extent to which they are translated into domestic legislation, policies, and institutional frameworks. In Uganda, the implementation of economic, social, and cultural rights has often occurred through sector-specific laws and policy initiatives addressing areas such as education, labour relations, healthcare, and social protection. Although these measures reflect aspects of the Covenant, the absence of comprehensive incorporation of the ICESCR into domestic law can limit its direct applicability in judicial proceedings. Consequently, the protection of these rights frequently relies on a combination of constitutional provisions, statutory frameworks, and administrative measures rather than direct invocation of the Covenant itself.

Within the context of this study, Uganda's engagement with the ICESCR illustrates the broader challenges associated with translating international human rights commitments into effective domestic practice. The dualist legal framework underscores the importance of legislative action, institutional capacity, and political will in ensuring that international obligations are meaningfully implemented. It also highlights the gap that can exist between formal ratification and substantive realisation of rights. Examining the domestication of the ICESCR in Uganda therefore provides valuable insights into the practical dynamics of treaty implementation, particularly the need for coherent legal frameworks and functional institutions capable of operationalising international standards within national contexts.

The Constitution of Uganda 1995 embodies several principles that align closely with the normative framework and objectives of the International Covenant on Economic, Social and Cultural Rights (ICESCR), particularly through its National Objectives and Directive Principles of State Policy. These provisions articulate the State's commitment to advancing social justice, promoting equitable development, and safeguarding vulnerable populations within society. For instance, the Constitution underscores the importance of access to education, the promotion of socio-economic welfare, and the protection of workers' rights. Although many of these provisions are framed as guiding principles rather than directly enforceable rights, they nonetheless provide a crucial normative foundation for advancing economic, social, and cultural rights within Uganda's legal system. Additionally, certain constitutionally recognised rights such as those relating to education and labour protections reflect the broader influence of international human rights standards, illustrating how global norms have informed Uganda's constitutional design (Mbazira, 2009; Oloka-Onyango, 2016).

Beyond constitutional guarantees, Uganda has made efforts to operationalise economic, social, and cultural rights through a range of sector-specific legislation and policy initiatives. Various statutory frameworks address elements of the rights protected under the ICESCR. For example, labour-related legislation regulates employment relationships, workplace conditions, and occupational safety, thereby addressing aspects of the right to just and favourable conditions of work. Similarly, education laws and policies aim to expand access to primary and secondary education, while public health legislation and national health strategies seek to improve access to healthcare services and enhance public health outcomes. In addition, government-led social protection programmes and development initiatives have been introduced to address poverty, expand access to basic services, and promote economic empowerment. Collectively, these measures demonstrate that, although not always explicitly framed in terms of international treaty obligations, many elements of the Covenant have been gradually incorporated into Uganda's domestic legal and policy landscape.

Despite these advancements, the domestication of ICESCR obligations in Uganda remains uneven and fragmented. While certain economic and social rights are recognised in specific legislative and policy frameworks, their enforceability within the judicial system is often limited. This is partly because many of the relevant constitutional provisions are articulated as directive principles rather than justiciable rights, meaning they serve as policy guidelines rather than legally enforceable claims. Consequently, individuals seeking to assert economic and social rights may encounter significant legal and procedural barriers. In practice, the realisation of these rights frequently depends on executive action, administrative policies, and government programmes rather than on enforceable legal remedies. This reflects a broader challenge common to dualist

legal systems, where international treaty obligations must be expressly incorporated into domestic law before they can be invoked in courts (Viljoen, 2019; Langford, Cousins & Dugard, 2022).

Scholarly analysis suggests that the implementation of economic, social, and cultural rights in many developing contexts is shaped by a complex interaction of legal, institutional, and economic factors (Mbazira, 2009). In Uganda, several structural constraints have affected the extent to which ICESCR obligations are translated into effective domestic practice. Among these are limited financial resources, institutional capacity constraints, and competing national development priorities. The fulfilment of economic and social rights often requires substantial investment in public services such as healthcare, education, housing, and social protection. In contexts where fiscal resources are constrained, governments may face difficult trade-offs in allocating funds, which can slow the pace of implementation and limit the scope of rights realisation.

Institutional dynamics further influence the domestication process. Effective implementation of ICESCR obligations requires coordination among a range of actors, including the legislature, executive agencies, administrative bodies, and the judiciary. Weak institutional capacity, fragmented policy implementation, and limited inter-agency coordination can hinder the translation of international commitments into practical outcomes. Moreover, the absence of comprehensive legislation explicitly incorporating the Covenant into domestic law creates uncertainty regarding the legal status of economic and social rights. This gap can weaken accountability mechanisms and reduce the ability of individuals to seek redress through formal legal channels.

The dualist character of Uganda's legal system adds another layer of complexity to this process. Under a dualist framework, the ratification of an international treaty does not

automatically make its provisions enforceable within the domestic legal order. Instead, treaties must be transformed into national law through legislative processes before they can be directly applied by courts. This means that, although Uganda is bound by the ICESCR at the international level, the practical implementation of its obligations depends on whether and how those obligations are incorporated into domestic legislation. In the absence of such incorporation, individuals may find it difficult to rely directly on the Covenant when seeking legal remedies for violations of economic and social rights (Viljoen, 2019).

As a result, meaningful domestication of ICESCR obligations in Uganda requires more than formal ratification. It necessitates deliberate legislative action, the strengthening of institutional frameworks, effective administrative coordination, and sustained political commitment. This includes integrating economic and social rights into enforceable legal provisions, enhancing the capacity of institutions responsible for implementation, and ensuring that national policies are aligned with international human rights standards. Such measures are essential for bridging the gap between international commitments and domestic realities.

Within the broader scope of this study, the ICESCR provides a compelling case through which to examine the challenges associated with the ratification and domestic incorporation of international human rights treaties. While ratification signals a State's formal acceptance of international obligations, the extent to which those obligations are realised in practice depends on the effectiveness of domestic legal and institutional systems. In dualist contexts such as Uganda, the process of domestication becomes a critical mechanism through which international norms are translated into concrete legal protections and policy measures. This highlights the intricate relationship between international law and national legal systems, as well as the central role of

domestic institutions in determining whether international human rights commitments achieve meaningful impact.

Examining Uganda's engagement with the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides important insight into the complex legal and institutional dynamics that shape the implementation of international human rights obligations at the national level. Although Uganda has formally ratified the Covenant and thereby accepted its binding obligations under international law, the extent to which these obligations are realised domestically depends largely on how effectively the Covenant's provisions are integrated into national legislation, constitutional interpretation, and policy frameworks. This highlights a critical distinction between formal commitment and substantive implementation. Uganda's experience illustrates that ratification, while symbolically and legally significant, does not in itself guarantee the effective protection or fulfilment of economic, social, and cultural rights. Instead, the practical realisation of these rights requires sustained and coordinated engagement across multiple state institutions, including legislative bodies responsible for law-making, executive agencies tasked with policy implementation, administrative structures that operationalise programmes, and judicial actors who interpret and enforce rights. The interaction among these institutional actors plays a decisive role in determining whether international human rights norms are translated into tangible outcomes within the domestic legal system.

Beyond institutional coordination, the implementation of ICESCR obligations in Uganda is also deeply intertwined with broader socio-economic realities that extend beyond the formal legal sphere. Economic, social, and cultural rights are inherently resource-dependent and often require governments to make complex policy decisions regarding budget allocation, prioritisation of public services, and long-term development strategies. Unlike many civil and political rights,

which can be realised primarily through legal protections against state interference, economic and social rights frequently demand proactive state intervention, including investment in infrastructure, service delivery systems, and welfare programmes. In the Ugandan context, efforts to advance rights related to education, healthcare, housing, and social protection demonstrate the extent to which international commitments must be supported by adequate financial resources, institutional capacity, and sustained political will. Where these supporting conditions are weak or inconsistent, a gap often emerges between international obligations and domestic practice, thereby limiting the transformative potential of treaty ratification.

The ICESCR thus serves as a critical analytical lens through which to examine how international legal norms interact with domestic governance structures. On one hand, the Covenant has influenced the development of Uganda's legal and policy frameworks by providing normative guidance and setting standards for social justice and equitable development. On the other hand, it exposes structural and systemic challenges that can hinder effective implementation, including resource constraints, institutional fragmentation, and the complexities associated with translating broad international principles into context-specific policies. By analysing these dynamics, it becomes possible to identify both enabling factors such as strong institutional coordination, legislative incorporation, and political commitment and constraining factors such as limited capacity, competing priorities, and weak enforcement mechanisms. This dual perspective allows for a more nuanced understanding of the domestication process, moving beyond formal legal analysis to consider the broader political and institutional environment in which international obligations operate.

In this regard, the ICESCR functions not merely as a legal instrument but as a practical case study for understanding the broader relationship between international law and domestic legal

systems. It illustrates how international human rights treaties can shape national governance while also revealing the limitations inherent in their implementation. The Ugandan experience underscores the importance of adopting a holistic approach to treaty domestication one that integrates legal reform with institutional strengthening, policy development, and socio-economic planning. Such an approach recognises that effective human rights protection depends not only on the existence of legal norms but also on the capacity of domestic systems to operationalise those norms in meaningful and sustainable ways.

The International Covenant on Economic, Social and Cultural Rights therefore remains a central component of the international human rights framework, providing a comprehensive set of standards aimed at promoting human dignity, social justice, and inclusive development. However, its effectiveness ultimately hinges on the extent to which States Parties are able and willing to translate its provisions into enforceable domestic laws, functional institutions, and responsive policy frameworks. In Uganda's case, the process of domestication reflects both the influence of international human rights norms and the structural challenges associated with implementing those norms within a dualist legal system. This interplay between international obligations and domestic realities offers valuable insight into the broader processes through which human rights treaties are internalised, contested, and applied at the national level. Such analysis is essential for understanding the legal and institutional mechanisms that shape treaty ratification and domestication, and for identifying pathways through which international human rights commitments can achieve more effective and sustainable impact within domestic contexts.

### **2.7.3 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979.**

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) remains one of the most influential and far-reaching instruments within the international human rights system, specifically dedicated to addressing gender inequality and eliminating discrimination against women in all its forms. Adopted in 1979 by the United Nations General Assembly, the Convention has come to be widely regarded as the international Bill of Rights for women because of its comprehensive scope and its explicit commitment to transforming the structural conditions that perpetuate gender-based discrimination. Unlike earlier human rights instruments that largely focused on formal equality before the law, CEDAW advances a more progressive and substantive conception of equality that requires states to go beyond mere legal recognition and take concrete steps to achieve real and practical equality in everyday life.

At the heart of CEDAW is the recognition that discrimination against women is deeply embedded in legal systems, institutional practices, cultural norms, and social structures. As such, the Convention establishes a broad and integrated framework that addresses civil, political, economic, social, and cultural rights within a single legal instrument. Its provisions cover a wide spectrum of issues, including the definition and prohibition of discrimination, the promotion of women's participation in political and public life, access to education and employment opportunities, the right to health care, and equality within marriage and family relations. This wide-ranging coverage reflects the understanding that gender inequality is multidimensional and cannot be effectively addressed through isolated or fragmented interventions. Instead, it requires a coordinated and comprehensive approach that tackles both the visible and underlying causes of discrimination.

A key feature of CEDAW is its emphasis on substantive equality, which focuses on the actual enjoyment of rights rather than their formal recognition alone. The Convention acknowledges that even where laws appear neutral, they may produce unequal outcomes due to existing social and cultural conditions. Consequently, states are required to take proactive and corrective measures to eliminate both direct and indirect discrimination. This includes the adoption of temporary special measures, such as affirmative action policies, aimed at accelerating equality in areas where women remain disadvantaged. In addition, the Convention places significant importance on transforming cultural and social patterns that reinforce gender stereotypes and discriminatory practices. By addressing both legal and societal dimensions of inequality, CEDAW expands the scope of state responsibility and highlights the need for long-term structural change.

Another important dimension of CEDAW is its recognition of women's rights within both the public and private spheres. Historically, many human rights instruments focused primarily on the public domain, often overlooking discrimination that occurs within the family or domestic setting. CEDAW breaks from this tradition by explicitly addressing issues such as family relations, reproductive rights, and the division of responsibilities within the household. This broader perspective reflects an understanding that inequality in private life has profound implications for women's participation in public life. By extending its reach into areas that were previously considered beyond the scope of international law, the Convention strengthens the protection of women's rights and reinforces the principle that human rights apply universally across all aspects of life.

The implementation of CEDAW is supported by a structured monitoring system that promotes accountability and continuous engagement between states and the international community. Central to this system is the CEDAW Committee, which is composed of independent

experts responsible for overseeing compliance with the Convention. States parties are required to submit periodic reports detailing the measures they have taken to implement the provisions of the Convention and the progress achieved in advancing gender equality. These reports are examined through a process of constructive dialogue, during which the Committee identifies areas of concern and provides recommendations for improvement. This process not only facilitates oversight but also encourages states to reflect on their policies and practices, thereby promoting incremental reform over time.

The reporting process is further strengthened by the participation of civil society organisations, which play a crucial role in enhancing transparency and accountability. Through the submission of shadow reports, these organisations provide alternative perspectives and highlight gaps between formal commitments and actual practice. This interaction between state reporting and civil society input creates a more comprehensive and balanced assessment of implementation, ensuring that the voices of affected groups are considered in the evaluation process. As a result, the Convention operates not only as a legal instrument but also as a platform for dialogue, advocacy, and reform at both national and international levels.

In addition to its formal mechanisms, CEDAW also exerts significant influence through its symbolic and normative power. The act of signing the Convention, even before ratification, can generate meaningful effects within domestic contexts. Signature signals a state's intention to align with international standards and creates expectations among both domestic and international audiences. This can stimulate policy discussions, encourage legislative review, and provide civil society actors with a basis for advocacy. Non-governmental organisations, in particular, are able to use the state's signature as a tool to hold governments politically accountable and to push for reforms that reflect the principles of the Convention.

Empirical research suggests that this early stage of engagement can lead to measurable improvements in women's rights, even in the absence of formal legal obligations. States that have signed the Convention often begin to adjust their policies and institutional frameworks in anticipation of ratification, while increased international attention creates additional pressure for compliance. These developments illustrate that international human rights instruments can influence state behaviour through multiple pathways, including legal, political, and social mechanisms. The impact of CEDAW is therefore not limited to its binding provisions but extends to its ability to shape norms, expectations, and practices within domestic systems.

Furthermore, the Convention contributes to broader processes of norm diffusion and socialisation within the international community. By establishing widely accepted standards for gender equality, it provides a common reference point for governments, international organisations, and civil society actors. This shared framework facilitates cooperation, encourages the exchange of best practices, and strengthens the global movement for women's rights. Over time, repeated engagement with these norms can lead to their internalisation within domestic legal and political systems, thereby reinforcing long-term compliance and transformation.

CEDAW therefore represents a dynamic and multifaceted instrument that combines legal obligations with normative influence to advance gender equality. Its emphasis on substantive equality, its integration of multiple categories of rights, and its focus on both public and private spheres distinguish it from earlier human rights treaties. At the same time, its monitoring mechanisms and its capacity to mobilise a wide range of actors contribute to its effectiveness in promoting change. Through these features, the Convention continues to play a central role in shaping international human rights discourse and in driving efforts to eliminate discrimination against women across different contexts.

One of the most illustrative examples highlighted in Comstock's (2024) research is the sustained mobilisation of women's rights activists in the United States, a state that has signed but not ratified Convention on the Elimination of All Forms of Discrimination against Women. Despite the absence of binding legal obligations under the treaty, civil society organisations within the United States have consistently relied on the country's signature as a powerful normative and political tool. Activists have invoked this preliminary commitment to advocate for policy reforms, raise public awareness, and exert pressure on legislators to align domestic laws and practices with international gender equality standards. This demonstrates that even in the absence of ratification, international human rights instruments can exert meaningful influence through their symbolic and discursive power. The act of signing creates expectations and opens a normative space within which advocacy can flourish, allowing domestic actors to frame their demands within a globally recognised legal framework.

In this context, the signature of Convention on the Elimination of All Forms of Discrimination against Women has functioned as an entry point for sustained activism and engagement. Civil society groups have used it to legitimise their claims, strengthen their advocacy strategies, and connect local struggles for gender equality to broader international norms and movements. By grounding their demands in international legal language, these actors are able to expand both the reach and the credibility of their campaigns, appealing not only to domestic audiences but also to international stakeholders. This dynamic underscores the broader insight that international law operates not only through formal legal enforcement but also through normative influence, shaping discourse, expectations, and political behaviour. Comstock's analysis therefore illustrates how non-binding commitments can still generate tangible impacts by influencing policy debates, institutional practices, and the broader socio-political environment.

In contrast to these more optimistic findings on the impact of treaty signature, Kreutzer and Mitchell (2024) provide a more critical and nuanced assessment of the effects of ratification, particularly in relation to the use of reservations. Their research focuses on how the quality and substance of ratification shape the effectiveness of international human rights treaties. Using an extensive dataset covering state-year observations from 1981 to 2019, they apply advanced statistical techniques, including ordered logit models, regression analysis, and Heckman selection models, to examine how different forms of ratification influence women's rights outcomes. Their findings indicate that ratification accompanied by substantive reservations, especially those targeting core provisions of the treaty, significantly weakens its transformative potential. In particular, reservations to key articles addressing equality in marriage, political participation, and legal rights tend to undermine the ability of the treaty to drive meaningful change.

Kreutzer and Mitchell (2024) further demonstrate that patterns of reservation are not random but are closely linked to broader domestic political and institutional conditions. States with weaker human rights records and limited commitment to gender equality are more likely to enter reservations to central provisions such as Articles 2, 5, 7, and 16, which are fundamental to eliminating discrimination and promoting women's participation in both public and private life. These reservations effectively allow such states to avoid fully complying with the treaty's core obligations while still benefiting from the legitimacy associated with ratification. In contrast, states with stronger institutional frameworks and a demonstrated commitment to gender equality are more likely to limit their reservations to non-core or procedural provisions. In these cases, reservations do not significantly compromise the overall effectiveness of the treaty, as the essential substantive obligations remain intact.

This variation in state behaviour highlights an enduring tension within international human rights law between the principles of universality and state sovereignty. On one hand, treaties aim to establish universal standards applicable to all states; on the other hand, the ability of states to enter reservations reflects their sovereign authority to shape the scope of their obligations. While this flexibility can encourage broader participation in treaty regimes, it also creates the risk of selective compliance and weakened enforcement. In practice, the effectiveness of a treaty such as Convention on the Elimination of All Forms of Discrimination against Women depends not only on the number of states that ratify it but also on the extent to which those states accept and implement its core provisions without dilution.

The combined insights from Comstock (2024) and Kreutzer and Mitchell (2024) point to a more complex and differentiated understanding of treaty effectiveness. While signature can generate important normative and political effects by shaping discourse and enabling advocacy, ratification does not automatically guarantee substantive progress, particularly when it is accompanied by extensive reservations. These findings challenge the assumption that formal participation in international treaties is sufficient to drive change, instead emphasising the importance of the quality and depth of state commitment. They also underscore the need for more rigorous monitoring of reservations, greater engagement with domestic civil society actors, and the development of institutional mechanisms capable of holding states accountable not only for ratification but also for the manner in which they interpret and implement their obligations.

Taken together, these perspectives reinforce the idea that international human rights law operates through a combination of legal, political, and social processes. The effectiveness of treaties is shaped not only by their formal provisions but also by the ways in which they are engaged with by states, institutions, and civil society actors. Understanding these dynamics is

essential for developing more effective strategies to promote gender equality and to strengthen the implementation of international human rights standards across diverse national contexts.

#### **2.7.4 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984**

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) occupies a pivotal place within the international human rights system as a specialised legal instrument dedicated to the elimination of torture and the protection of human dignity. Adopted by the United Nations General Assembly in 1984 and entering into force in 1987, the Convention was developed against the backdrop of persistent global concern over the continued use of torture and related forms of ill-treatment by state authorities. Although earlier instruments such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights had already articulated a general prohibition against torture, CAT represents a significant normative and legal advancement. It does not merely restate existing principles but instead establishes a more elaborate and operational framework that requires states to take concrete steps to prevent, criminalise, investigate, and punish acts of torture. In this respect, the Convention strengthens both the clarity and enforceability of the international prohibition, transforming a general norm into a structured regime of obligations supported by institutional oversight mechanisms.

One of the most significant contributions of CAT lies in its formulation of a detailed and functional definition of torture under Article 1, which serves as a cornerstone for both international interpretation and domestic implementation. The Convention characterises torture as the intentional infliction of severe physical or psychological suffering for specific purposes, including obtaining information or confessions, punishment, intimidation, coercion, or discrimination.

Crucially, this definition emphasises the involvement of state actors, whether through direct action, consent, or acquiescence, thereby distinguishing torture from other forms of violence or abuse that may occur in private contexts. This combination of elements—intent, severity, purpose, and state involvement—provides a precise legal threshold that enhances consistency in interpretation across jurisdictions. It also enables states to incorporate the offence of torture into their domestic criminal frameworks with greater clarity, thereby facilitating prosecution and reducing ambiguity in legal proceedings.

The obligations imposed on states under the Convention are extensive and reflect the absolute and non-derogable nature of the prohibition against torture. States are required to ensure that acts of torture are criminalised within their domestic legal systems and that appropriate penalties are established to reflect the gravity of such offences. In addition, they must undertake prompt, impartial, and effective investigations into allegations of torture and ensure that perpetrators are held accountable through prosecution and punishment. Preventive obligations are equally central to the Convention's framework, requiring states to adopt a wide range of legislative, administrative, and institutional measures designed to minimise the risk of torture occurring in the first place. These measures may include oversight of detention facilities, regulation of law enforcement practices, and the establishment of safeguards within judicial processes. Furthermore, the Convention explicitly prohibits the admission of evidence obtained through torture in legal proceedings, thereby reinforcing principles of fairness and due process while discouraging abusive practices. The principle of non-refoulement further extends these protections by prohibiting the transfer or extradition of individuals to jurisdictions where there are substantial grounds for believing they would face a real risk of torture. Collectively, these

provisions affirm that the prohibition of torture is a fundamental and universally binding norm within international law.

Responsibility for monitoring the implementation of CAT rests with the Committee against Torture, an independent body composed of experts tasked with overseeing state compliance. States parties are required to submit periodic reports outlining the measures they have taken to implement the Convention's provisions. These reports are subject to detailed review through a process of constructive dialogue between the Committee and state representatives, during which questions are raised and clarifications sought regarding national practices and policies. The Committee subsequently issues concluding observations that identify areas of progress, highlight deficiencies, and provide recommendations aimed at strengthening compliance. This monitoring process promotes transparency, encourages self-assessment, and facilitates ongoing engagement between states and international oversight mechanisms, thereby supporting gradual improvements in national systems for the prevention of torture.

Beyond the reporting mechanism, the Convention also establishes additional procedures that enhance international accountability. Individuals who claim to be victims of violations may submit communications to the Committee, provided that the relevant state has accepted this competence. The Committee is also authorised to initiate confidential inquiries where there is credible evidence indicating that torture is being systematically practised within a state's territory. These mechanisms extend the reach of international oversight by creating avenues through which violations can be examined beyond the domestic sphere. They also contribute to deterrence by increasing the visibility of abusive practices and reinforcing expectations of accountability at both national and international levels.

The adoption of the Optional Protocol to CAT represents a further development in strengthening the preventive dimension of the international anti-torture regime. The Protocol introduces a system of regular and independent visits to places of detention, conducted by both international bodies and national preventive mechanisms established by states. These visits are intended to identify structural conditions and practices that may facilitate torture or ill-treatment and to engage authorities in dialogue aimed at improving detention standards. This approach reflects a shift from reactive enforcement toward proactive prevention, recognising that the elimination of torture requires continuous monitoring, institutional transparency, and sustained engagement with state authorities. By focusing on risk reduction rather than solely on post-violation accountability, the Optional Protocol enhances the overall effectiveness of the Convention's framework.

Within the analytical scope of this study, CAT offers a particularly instructive illustration of how abstract international human rights principles are transformed into concrete, operational legal duties that must ultimately be realised within domestic legal orders. Although the Convention articulates clear normative standards at the international level, its practical impact is contingent upon the extent to which individual states are both willing and institutionally equipped to embed these standards within their national legal systems. This process involves not only the formal incorporation of treaty provisions into domestic legislation but also their integration into judicial reasoning, administrative practice, and institutional oversight frameworks. In jurisdictions characterised by dualist legal traditions, the transition from international obligation to domestic enforceability is neither automatic nor incidental; rather, it requires deliberate legislative intervention, structured policy responses, and the establishment of mechanisms capable of regulating the conduct of state actors. In this regard, the Convention highlights broader structural

challenges associated with the implementation of international human rights law, particularly the need to harmonise legal norms, institutional capacity, and political commitment in order to ensure effective protection against torture.

Uganda's engagement with CAT reflects these dynamics in a particularly illustrative manner. The country ratified the Convention in 1986, thereby accepting binding obligations under international law to prohibit torture, investigate violations, and ensure accountability for those responsible. This act of ratification represented a formal alignment with global human rights standards and signalled an intention to integrate these norms into the national legal and institutional framework. However, consistent with the logic of a dualist system, ratification alone did not render the Convention directly enforceable within Uganda's domestic legal order. The translation of these international commitments into binding national law required a deliberate process of legislative domestication, which materialised with the enactment of the Prevention and Prohibition of Torture Act in 2012. This statute constitutes a central pillar in Uganda's domestic implementation of anti-torture obligations, providing a legal definition of torture consistent with international standards, establishing criminal liability, and prescribing penalties for violations.

Beyond its formal recognition of torture as a criminal offence, the Act introduces a range of safeguards designed to prevent abuse within state institutions, particularly those involved in law enforcement and custodial management. It affirms the absolute and non-derogable nature of the prohibition against torture, explicitly rejecting any justification based on exceptional circumstances such as national security concerns or states of emergency. In doing so, the legislation reinforces a core principle of international human rights law that prohibits torture under all conditions. Furthermore, the Act seeks to regulate the behaviour of public officials by establishing clear legal consequences for misconduct, thereby promoting accountability and

detering abusive practices. Through these provisions, the legislation represents a meaningful attempt to translate international legal obligations into enforceable domestic standards and to embed respect for human rights within institutional practices.

Notwithstanding these legislative developments, significant challenges continue to undermine the effective enforcement of anti-torture protections in Uganda. Persistent concerns have been raised regarding policing practices, including the use of excessive force, coercive interrogation techniques, and mistreatment of individuals in custody. Conditions within detention facilities also remain a critical issue, with overcrowding, inadequate infrastructure, and limited access to essential services contributing to environments in which ill-treatment can occur. These structural deficiencies are often exacerbated by weaknesses in oversight and accountability mechanisms, including limited institutional independence, insufficient investigative capacity, and delays in prosecuting alleged offenders. Consequently, a gap frequently emerges between the existence of legal safeguards and their actual implementation in practice, raising questions about the extent to which formal legal reforms translate into tangible protections for individuals.

These challenges are indicative of broader systemic issues associated with the domestication of international human rights treaties, particularly within dualist legal systems where legislative incorporation does not automatically guarantee effective enforcement. The Ugandan case demonstrates that the mere existence of implementing legislation, while necessary, is insufficient on its own to ensure compliance with international obligations. Effective implementation requires a multidimensional approach that includes strengthening institutional capacity, enhancing the professionalism and training of law enforcement personnel, ensuring judicial independence, and developing robust monitoring and accountability structures. Without

these complementary measures, legal frameworks risk remaining largely aspirational, with limited impact on everyday practices within state institutions.

Uganda's experience therefore provides a valuable empirical lens through which to examine the complexities inherent in translating international human rights commitments into domestic realities. While the country's ratification of CAT and subsequent legislative action reflect a clear formal commitment to the prohibition of torture, ongoing implementation challenges underscore the importance of sustained institutional reform and political engagement. Addressing these challenges requires not only legal adjustments but also broader efforts to promote transparency, strengthen accountability, and cultivate a culture of respect for human rights within both state institutions and society at large.

In this context, CAT continues to function as a central reference point within the international human rights system, establishing unequivocal standards that prohibit torture and related forms of abuse. Its significance extends beyond its formal legal provisions to its capacity to influence national legal development, shape institutional practices, and provide a framework for accountability. However, the effectiveness of the Convention ultimately depends on how its principles are internalised and operationalised within domestic contexts. The Ugandan case illustrates that the journey from ratification to realisation is complex and requires continuous effort, institutional alignment, and sustained political will. Through this lens, the Convention serves as a useful analytical tool for understanding the broader processes of treaty domestication and the conditions under which international human rights standards can be effectively implemented at the national level.

## **2.8 Review of Literature According to Objectives of the Research**

This section reviews the literature in accordance with the study's objectives, as outlined below.

### **2.8.1 Effectiveness of Treaty Ratification and Domestication**

The question of how effective international human rights treaties are in shaping state behaviour has long occupied a prominent place in both international legal theory and international relations scholarship. Following the rapid institutional and normative expansion of the global human rights system during the second half of the twentieth century, academic inquiry has increasingly focused on whether the formal act of treaty ratification produces tangible improvements in the protection of rights within domestic jurisdictions. While ratification undoubtedly represents a clear juridical commitment through which a state accepts binding international obligations, the extent to which such commitments translate into real-world behavioural transformation has proven to be far more intricate than early assumptions suggested. Consequently, a substantial and continually evolving body of literature has emerged, aimed at critically examining the relationship between formal legal adherence and actual patterns of compliance across varying political, legal, and institutional environments.

Earlier doctrinal approaches in international law largely operated on the premise that states would comply with treaty obligations by virtue of legal commitment and the principle of good faith. This expectation was rooted in foundational doctrines of international law, particularly the notion that agreements voluntarily entered into by sovereign states carry an inherent obligation of performance. However, empirical investigations conducted within the fields of international relations and comparative law have challenged this assumption by demonstrating that formal ratification frequently does not correspond with meaningful improvements in human rights

practices. In numerous instances, states have been shown to ratify treaties while simultaneously failing to implement their provisions effectively, and in some cases continuing practices that directly contradict their international commitments. These findings have prompted a shift in scholarly focus away from ratification as a singular indicator of compliance, toward a more nuanced examination of the mechanisms through which international norms are translated into domestic realities.

Within this evolving analytical framework, particular emphasis has been placed on the processes of domestication, implementation, and internalisation as critical determinants of treaty effectiveness. Domestication involves the formal incorporation of treaty obligations into national legal systems through legislative enactment or constitutional recognition, thereby providing a legal basis for enforcement within domestic jurisdictions. Implementation refers to the practical application of these incorporated norms through institutional mechanisms such as administrative policies, judicial decisions, and regulatory frameworks. Internalisation, by contrast, represents a deeper and more gradual process through which international norms become embedded within the legal culture, institutional behaviour, and normative expectations of a given society. Scholars increasingly argue that the success of international human rights treaties depends less on the act of ratification itself and more on the extent to which these interconnected processes are realised within domestic systems. Where institutions are robust, independent, and capable of enforcing legal standards, these processes are more likely to produce substantive compliance. In contrast, in contexts characterised by fragile governance structures or limited institutional capacity, treaty commitments often remain largely symbolic and fail to generate meaningful change.

A central insight emerging from this body of scholarship is that international human rights regimes function predominantly through domestic legal and political structures rather than through direct international enforcement. Unlike other areas of international law that may incorporate coercive mechanisms such as sanctions or dispute settlement systems, human rights treaties generally rely on indirect forms of enforcement, including reporting procedures, monitoring mechanisms, and normative pressure. As a result, the effectiveness of these treaties is mediated by domestic institutions, including courts, legislatures, executive agencies, and oversight bodies, which are responsible for interpreting and applying international obligations within national contexts. The degree to which these institutions possess the authority, capacity, and willingness to operationalise treaty commitments plays a decisive role in shaping compliance outcomes. This perspective has led scholars to pay closer attention to internal state dynamics, including constitutional arrangements, legal traditions, institutional design, and political incentives, as key variables influencing the domestic impact of international human rights law.

Another significant strand of scholarship underscores the symbolic and normative dimensions of treaty ratification within the international system. From this viewpoint, ratification extends beyond its legal function to serve as a political signal indicating a state's alignment with internationally recognised human rights standards. Even in situations where immediate implementation is limited or incomplete, the act of ratification can contribute to the broader diffusion of global norms by reinforcing shared expectations regarding acceptable standards of governance and state conduct. Over time, these normative commitments may shape both international discourse and domestic understandings of human rights, influencing how governments, institutions, and societies interpret their obligations and responsibilities. This

perspective helps explain why states may choose to ratify treaties even in the absence of strong enforcement mechanisms or where compliance may entail significant political or economic costs.

Closely linked to this normative dimension is the role of international human rights treaties in influencing domestic political and legal processes. Ratification often creates new avenues through which domestic actors can engage with international standards and utilise them as instruments for advocacy and reform. Civil society organisations, human rights defenders, and legal practitioners frequently rely on treaty obligations to frame their claims, challenge governmental practices, and advocate for legislative or policy changes. By grounding their arguments in internationally recognised legal norms, these actors are able to enhance the credibility and legitimacy of their demands while increasing pressure on governments to honour their commitments. In addition, domestic courts in many jurisdictions have increasingly drawn upon international human rights treaties when interpreting constitutional provisions or adjudicating disputes involving fundamental rights. Through this process, international norms are gradually integrated into domestic legal reasoning, contributing to the development of jurisprudence that aligns more closely with global human rights standards.

These dynamics reveal that the influence of international human rights treaties is often exercised through indirect and internally mediated pathways rather than through direct external enforcement. Instead of relying primarily on coercive mechanisms at the international level, treaties tend to operate by strengthening the capacity of domestic actors who initiate and sustain reform processes within national systems. Through strategic litigation, sustained advocacy initiatives, and engagement with international monitoring frameworks, such actors contribute to embedding human rights norms within domestic governance structures. This process of

internalisation is typically gradual and uneven, unfolding over time and varying significantly across contexts. Its trajectory is shaped by a range of factors, including the level of political commitment, the strength and independence of institutions, and the vibrancy of civil society. In certain settings, these interactions can generate substantial legal and policy transformation, while in others their effects remain limited, fragmented, or inconsistent.

The diversity of outcomes observed across different jurisdictions underscores the necessity of adopting a context-sensitive lens when evaluating treaty effectiveness. Variations in constitutional design, legal traditions, economic capacity, and political organisation all play a decisive role in shaping how international obligations are interpreted, received, and implemented within domestic systems. In countries characterised by well-functioning democratic institutions, independent judicial systems, and active civil society engagement, treaty commitments are more likely to be operationalised into enforceable rights and meaningful protections. Conversely, in contexts where these institutional and political conditions are weak or underdeveloped, the translation of international commitments into practical outcomes is often constrained. This divergence highlights the existence of a persistent gap between formal legal commitments and their realisation in practice, reinforcing the need for analytical approaches that account for the complex interaction between international norms and domestic realities.

More recent academic work has increasingly drawn attention to the symbolic and normative dimensions of treaty ratification as key drivers of long-term behavioural change. Rather than viewing treaties solely as instruments that impose binding legal obligations, scholars have emphasised their role in gradually embedding international human rights norms within domestic political and institutional frameworks. Through processes such as socialisation, persuasion, and

norm diffusion, treaty commitments can reshape how governments, public institutions, and societies understand and respond to human rights responsibilities. As highlighted in the literature, even where immediate reforms are minimal or delayed, ratification may generate both domestic and international expectations that states will progressively align their laws and policies with accepted global standards. These expectations can influence political discourse, shape public debate, and contribute to the slow but steady incorporation of human rights principles into national governance systems.

At the same time, it is important not to overstate the transformative capacity of ratification when considered in isolation. While treaties provide important normative frameworks and reference points for reform, their practical impact depends heavily on the domestic environments within which they operate. Ratification interacts with existing legal systems, institutional arrangements, and political dynamics that ultimately determine whether treaty obligations are meaningfully implemented. As a result, contemporary scholarship increasingly emphasises the need to examine how international commitments are filtered through domestic institutions, including legislative bodies, judicial systems, executive agencies, and oversight mechanisms. These institutions collectively shape the pathways through which international norms are translated into practice and determine the extent to which compliance is achieved.

Empirical evidence further reinforces the argument that ratification alone is insufficient to produce improvements in human rights protection. Although ratification establishes binding obligations at the international level, it does not automatically result in substantive changes in domestic behaviour. Early empirical studies demonstrated that some states, particularly those with weaker human rights records, may ratify treaties without undertaking the structural reforms

necessary for effective compliance. In such cases, treaty adoption may serve strategic purposes, including enhancing international legitimacy or improving diplomatic standing, without necessarily reflecting a genuine commitment to reform. Under these circumstances, ratification functions more as a symbolic gesture than as a mechanism for substantive change, contributing to the global articulation of norms while leaving domestic practices largely unaffected.

This pattern is further supported by research indicating that the impact of treaty commitments is closely linked to domestic political and institutional conditions. Evidence suggests that positive outcomes are more likely to occur in states with democratic governance structures, independent and effective judicial systems, and active civil society organisations capable of monitoring government behaviour and advocating for reform. In contrast, where institutional capacity is weak and accountability mechanisms are limited, treaty obligations often fail to translate into meaningful improvements. This reinforces the view that domestic context acts as a critical mediating factor, shaping whether international legal commitments lead to actual behavioural change.

Building on these insights, more recent scholarship has explored the indirect mechanisms through which treaties influence domestic governance processes. One key argument is that treaties exert their strongest effects by empowering domestic actors, including non-governmental organisations, legal professionals, and judicial institutions, to mobilise around international standards. These actors utilise treaty commitments as tools for advocacy, litigation, and public engagement, thereby influencing political and legal processes at the national level. Where domestic institutions are sufficiently responsive and capable, such mobilisation can result in tangible improvements in the protection of rights. Conversely, in environments where institutional

mechanisms are weak or constrained, the potential influence of treaties is significantly reduced, even where formal ratification has occurred.

This growing emphasis on domestic processes has led scholars to examine more closely the mechanisms through which treaty obligations are operationalised within national legal systems. Legislative incorporation is widely recognised as one of the most critical components of this process. By enacting laws that reflect international treaty provisions, states create legal frameworks that allow individuals to assert and enforce their rights within domestic courts. This process is particularly significant in dualist legal systems, where treaties do not automatically acquire legal force upon ratification. In such contexts, implementing legislation serves as the essential bridge between international commitments and domestic enforceability, ensuring that treaty norms are translated into actionable legal standards.

In addition to legislative incorporation, judicial interpretation plays a crucial role in integrating international human rights norms into domestic legal systems. Courts across various jurisdictions increasingly reference international treaties when interpreting constitutional provisions or statutory frameworks relating to fundamental rights. Through this interpretive engagement, international norms can influence domestic jurisprudence even in the absence of comprehensive legislative incorporation. Scholars argue that this judicial interaction contributes to the gradual internalisation of human rights principles, embedding them within legal reasoning and decision-making processes. Over time, this can enhance the coherence, consistency, and effectiveness of human rights protection within domestic legal systems, reinforcing the broader impact of international law at the national level.

Beyond legislative enactment and judicial engagement, administrative transformation within state institutions constitutes a critical dimension in the practical realisation of treaty obligations. The effectiveness of international human rights commitments often hinges on the existence of functional institutional frameworks capable of translating legal norms into everyday governance practices. This typically involves the creation and strengthening of specialised bodies, regulatory systems, and oversight structures mandated to advance and safeguard human rights. Such institutional arrangements may include national human rights commissions, independent monitoring agencies, and sector-specific authorities responsible for areas such as public health, education, labour regulation, and social welfare. In the absence of these administrative mechanisms, legal obligations risk remaining largely abstract, as there may be insufficient institutional capacity to enforce standards, monitor compliance, or address violations in a systematic manner.

When considered collectively, this body of scholarship demonstrates that the impact of international human rights treaties cannot be assessed solely on the basis of their formal legal status within the international system. Rather, their effectiveness is fundamentally shaped by the extent to which domestic institutions are able to incorporate, interpret, and operationalise treaty obligations through coordinated and mutually reinforcing processes involving legislation, adjudication, and administration. The interaction between international norms and domestic institutional capacity has therefore emerged as a central analytical focus in understanding how treaties influence state conduct. Through sustained engagement across these multiple institutional layers, international human rights instruments can gradually reshape national legal systems, influence governance practices, and contribute to evolving societal expectations regarding the protection of fundamental rights.

The transformation of international legal obligations into domestically enforceable norms is commonly described as the process of domestication. This process represents a pivotal stage in the lifecycle of international agreements, as it marks the transition from abstract commitments at the global level to concrete legal rules and institutional practices within national jurisdictions. While ratification establishes a state's consent to be bound under international law, it does not, in itself, ensure that treaty provisions will have direct effect within the domestic legal order. The actual influence of international human rights treaties therefore depends heavily on the mechanisms through which their provisions are integrated into national legal frameworks and governance systems. This process of internal translation remains a central concern within contemporary international legal scholarship, as it determines whether treaty obligations become practically meaningful or remain largely symbolic.

The pathways through which domestication occurs are closely linked to the constitutional and legal traditions of individual states, particularly the distinction between monist and dualist systems. These two models reflect fundamentally different conceptions of how international and domestic legal orders relate to one another. In monist systems, international law is generally understood to form part of a unified legal framework in which treaties, once ratified, may become directly applicable without the need for additional legislative measures. This approach enables domestic courts to apply treaty provisions in adjudicating disputes, including those involving human rights claims. As a result, individuals in monist jurisdictions are often able to rely directly on international legal norms, thereby enhancing the accessibility and practical relevance of treaty obligations within the domestic legal system.

In contrast, dualist systems maintain a clear conceptual and operational separation between international law and domestic law. Under this framework, the mere ratification of a treaty does not confer upon it legal force within the national legal order. Instead, treaties must undergo a process of transformation through legislative action before they can be applied by courts or administrative bodies. This requirement reflects the constitutional principle that lawmaking authority resides within domestic institutions, particularly legislative bodies, rather than being derived automatically from international agreements. Consequently, treaty provisions must be translated into domestic statutes, constitutional amendments, or other legal instruments in order to become enforceable at the national level.

This divergence between monist and dualist approaches carries significant implications for the practical effectiveness of international human rights treaties. In dualist systems, the absence of implementing legislation can create substantial barriers to enforcement, as individuals may be unable to invoke treaty rights in domestic proceedings despite the state's international obligations. Even where ratification has occurred, the lack of incorporation may render treaty provisions effectively inaccessible within the domestic legal framework. This institutional arrangement places considerable emphasis on the role of national legislatures, whose willingness and capacity to enact implementing laws ultimately determine whether international commitments are translated into enforceable rights within the state.

Legislative incorporation thus emerges as a central mechanism in bridging the gap between international obligations and domestic enforceability. Through the enactment of implementing statutes, states convert treaty provisions into binding legal norms that can be applied by courts, administrative agencies, and regulatory bodies. This process not only facilitates compliance with

international commitments but also enhances the visibility and accessibility of human rights standards within domestic legal systems. Individuals are thereby empowered to assert their rights before national institutions, while public authorities are provided with clear legal benchmarks to guide their conduct. In this way, legislative incorporation strengthens both the legitimacy and the operational effectiveness of international human rights law within national governance frameworks.

In addition to its role in enabling enforcement, legislative incorporation contributes to greater legal certainty and institutional coherence. Implementing legislation often delineates the scope and content of treaty obligations, identifies the authorities responsible for enforcement, and establishes procedures through which individuals may seek remedies for violations. These provisions play a crucial role in translating broad and sometimes abstract international norms into specific, actionable legal standards that can be consistently applied within domestic systems. Without such clarification, treaty obligations may remain indeterminate or difficult to operationalise, thereby limiting their practical impact and generating uncertainty in their application.

Where effective domestication mechanisms are lacking, a significant disconnect may arise between international commitments and domestic practice. In such circumstances, treaties may function primarily as instruments of diplomatic signalling or normative guidance rather than as sources of enforceable legal rights. This gap between commitment and implementation has been widely identified as one of the core challenges facing international human rights law, particularly in jurisdictions where legislative incorporation is incomplete or absent. The persistence of this gap

underscores the importance of domestication as a critical process through which international obligations are translated into meaningful protections for individuals.

Beyond legislative processes, judicial interpretation plays an equally important role in shaping the domestic relevance of international human rights treaties. Courts frequently act as intermediaries between international legal norms and national legal practice, interpreting domestic law in ways that may either reinforce or limit the influence of international standards. Even in legal systems where treaties have not been fully incorporated, courts may draw upon international human rights instruments as interpretive resources when construing constitutional provisions or statutory frameworks relating to fundamental rights.

Through this interpretive engagement, international norms can exert influence within domestic legal systems indirectly, shaping judicial reasoning and contributing to the development of rights-oriented jurisprudence. Courts may rely on treaty provisions to clarify the meaning and scope of rights such as freedom of expression, equality before the law, and due process, particularly in situations where domestic legal provisions are ambiguous or incomplete. This practice reflects a broader trend toward the integration of international human rights standards into domestic adjudication, as judicial institutions increasingly recognise the relevance of international law in informing national legal frameworks. Over time, such engagement contributes to the gradual internalisation of human rights norms, strengthening the coherence and effectiveness of rights protection within domestic legal systems.

The impact of international law on judicial reasoning has been widely observed across a broad range of legal systems, reflecting the growing interconnectedness between global norms and domestic adjudication. In certain jurisdictions, particularly those operating under monist traditions,

courts explicitly rely on treaty provisions as binding sources of law and apply them directly in resolving disputes. In other settings, where treaties do not automatically acquire domestic legal force, judicial bodies nonetheless engage with international law in more indirect ways. This may involve drawing upon the jurisprudence of international treaty bodies, referencing comparative international standards, or invoking general principles of international law to inform the interpretation of domestic legal provisions. Such practices demonstrate that, even in the absence of formal legislative incorporation, international norms can meaningfully shape domestic legal outcomes through judicial engagement.

This form of judicial interaction has been identified by scholars as a key mechanism through which international human rights norms become embedded within national legal systems. By repeatedly referencing international standards in their reasoning, courts contribute to normalising these norms within domestic legal discourse and practice. Over time, this interpretive engagement facilitates the gradual internalisation of human rights principles, reinforcing their authority and strengthening their practical application within national contexts. Judicial interpretation therefore operates alongside legislative incorporation as an important pathway through which international legal norms influence domestic law, particularly in situations where formal domestication processes remain incomplete or uneven.

In addition to domestic legal processes, the effectiveness of international human rights treaties is also shaped by the role of international monitoring mechanisms. Many human rights treaties establish specialised oversight bodies mandated to assess state compliance with treaty obligations. These bodies serve as institutional anchors within the international human rights system, tasked with evaluating whether states have adopted the legislative, administrative, and

policy measures necessary to give effect to their commitments. Through structured procedures such as periodic reporting, constructive dialogue, and the issuance of recommendations, these institutions play a central role in promoting transparency, accountability, and continuous improvement in human rights practices across jurisdictions.

The relationship between international monitoring bodies and domestic institutions further enhances the domestication of treaty obligations. Recommendations and findings issued by treaty bodies often extend beyond mere evaluation, influencing domestic legal and institutional developments in tangible ways. They may prompt legislative amendments, guide judicial interpretation, and inform administrative decision-making within states. In this sense, international monitoring mechanisms function not only as instruments of oversight but also as drivers of institutional change, facilitating the alignment of domestic systems with international standards and helping to bridge the gap between formal commitments and practical implementation.

A central component of this monitoring framework is the periodic reporting process, through which states submit detailed accounts of the measures they have undertaken to implement treaty obligations. These reports typically outline legislative reforms, administrative initiatives, and policy developments aimed at advancing human rights protection. Following submission, treaty bodies engage in an interactive dialogue with state representatives, providing an opportunity to scrutinise the information presented, seek clarification, and explore areas of concern in greater depth. This process culminates in the issuance of concluding observations, which identify both achievements and shortcomings, while offering targeted recommendations for strengthening compliance. These recommendations frequently address deficiencies in domestic legislation, institutional capacity, and policy frameworks that hinder effective implementation. The iterative

nature of this reporting cycle encourages governments to periodically reassess their approaches and to consider reforms that bring national practices into closer alignment with international standards.

Beyond their accountability function, international monitoring mechanisms also serve as important platforms for policy learning and institutional development. Through engagement with treaty bodies, states are exposed to a wide array of comparative experiences and best practices derived from different legal and political contexts. The guidance provided by these bodies often includes practical recommendations on how to improve governance structures, enhance institutional capacity, and address systemic challenges affecting human rights protection. This exchange of knowledge contributes to the broader diffusion of international norms and supports the adoption of more effective and context-sensitive policy approaches. As scholars have observed, this learning dimension is a critical aspect of treaty monitoring, enabling states to move beyond formal compliance toward more substantive and sustainable implementation of their obligations.

The monitoring process also strengthens domestic accountability by generating authoritative assessments that can be utilised by a range of internal actors. Civil society organisations, legal practitioners, and advocacy groups frequently rely on treaty body reports to support their efforts in promoting reform and holding governments accountable. Where shortcomings are identified, these findings provide a credible and internationally recognised basis for advocacy, enabling domestic actors to engage more effectively with policymakers and to challenge practices that fall short of international standards. In this way, international monitoring mechanisms extend their influence beyond intergovernmental processes, contributing to broader dynamics of domestic mobilisation and legal reform.

In addition, the visibility created through monitoring processes can generate indirect pressure on states through mechanisms of international scrutiny and reputational accountability. Although treaty bodies generally lack coercive enforcement powers, their ability to publicly evaluate state performance creates incentives for governments to respond to criticism and improve compliance. The publication of reports, concluding observations, and recommendations ensures that information about state behaviour is accessible to a wide audience, including other governments, international organisations, and transnational advocacy networks. This exposure can increase the political and diplomatic costs associated with non-compliance, encouraging states to adopt reforms in order to maintain credibility, legitimacy, and standing within the international community.

Civil society organisations occupy a central and highly influential position in strengthening the impact of international human rights monitoring processes. By actively engaging with the outputs of treaty bodies, these organisations play a crucial role in ensuring that international assessments do not remain confined to diplomatic or institutional spaces but are translated into meaningful domestic conversations. Through advocacy, public engagement, and strategic communication, civil society actors disseminate findings from monitoring bodies, making them accessible to broader audiences, including policymakers, legal practitioners, and the general public. In doing so, they transform technical reports into instruments of political engagement and accountability.

In many instances, advocacy groups rely heavily on the authoritative nature of treaty body findings to support campaigns aimed at legislative reform, institutional accountability, and policy transformation. These organisations frequently utilise monitoring reports as evidence to highlight

gaps in compliance, challenge existing governance practices, and propose concrete reforms aligned with international standards. By bridging the divide between international oversight mechanisms and domestic governance structures, civil society ensures that treaty obligations remain visible, relevant, and politically salient within national contexts. This intermediary role significantly enhances the practical effectiveness of international human rights treaties by embedding them within ongoing domestic discourse and reform processes.

The importance of this dynamic is further reinforced by the operation of transnational advocacy networks, which extend the reach and influence of domestic actors beyond national boundaries. As observed by scholars such as Keck and Sikkink and further developed by Hafner-Burton, these networks facilitate cross-border collaboration, enabling the exchange of information, strategies, and resources among actors operating at different levels of governance. Through these interconnected structures, domestic organisations gain access to international platforms, including global media, international institutions, and diplomatic channels, which can amplify their concerns and increase pressure on governments to adhere to their human rights commitments.

Within these networks, the information generated through treaty monitoring processes becomes a critical resource. Reports, concluding observations, and recommendations are not only used domestically but are also circulated internationally to mobilise support, generate awareness, and coordinate advocacy efforts. This flow of information strengthens collective action and creates a more cohesive and coordinated approach to promoting accountability. As a result, transnational advocacy networks play a vital role in transforming international legal standards into actionable tools for reform, thereby enhancing the overall effectiveness of human rights regimes.

In addition to advocacy and network mobilisation, reputational considerations constitute another important mechanism through which international human rights treaties influence state behaviour. Governments operating within the international system are often sensitive to how their performance is perceived by external actors, including other states, international organisations, and development partners. Evaluations produced by treaty bodies can therefore carry significant political weight, particularly when they highlight shortcomings in compliance or expose patterns of rights violations.

Negative assessments may have broader implications beyond the legal sphere, affecting diplomatic relations, access to development assistance, and international credibility. Consequently, states may be motivated to undertake reforms not solely out of legal obligation but also as a means of preserving their reputation and maintaining legitimacy within the global community. Scholars have emphasised that these reputational dynamics can function as powerful, albeit indirect, incentives for compliance, particularly in the absence of strong enforcement mechanisms at the international level.

Despite the presence of these various mechanisms, the extent to which international human rights treaties produce tangible improvements in domestic human rights conditions remains a subject of ongoing scholarly debate. Critics argue that the absence of coercive enforcement tools within international law significantly limits its ability to compel states to comply with their obligations. From this perspective, reliance on voluntary cooperation, reputational concerns, and normative persuasion may be insufficient to drive meaningful reform, particularly in contexts where governments lack political will or face competing domestic priorities.

This critique is closely linked to the argument that states may engage with international human rights treaties for strategic or symbolic reasons rather than out of genuine commitment to reform. By ratifying treaties, governments can signal alignment with global norms, thereby enhancing their international image and strengthening diplomatic relationships. However, such symbolic commitments may not always translate into substantive changes in domestic law or governance practices. In this sense, treaty participation may function as a form of political signalling or reputation management, allowing states to project compliance while maintaining existing practices that fall short of international standards.

In response to these concerns, an alternative body of scholarship proposes a more nuanced and long-term understanding of treaty effectiveness. Rather than focusing exclusively on immediate compliance or short-term behavioural change, this perspective emphasises the gradual processes through which international norms become embedded within domestic systems. According to this view, the influence of international human rights treaties unfolds over time through sustained interaction between international institutions, domestic actors, and legal processes.

Through repeated engagement with treaty bodies, participation in reporting mechanisms, and interaction with advocacy networks, states may gradually adapt their legal frameworks, institutional practices, and policy approaches. This process of internalisation involves not only formal legal reforms but also shifts in political discourse, administrative behaviour, and societal expectations. Over time, international human rights norms may become integrated into the fabric of domestic governance, contributing to incremental yet meaningful improvements in the protection of rights.

This evolving understanding underscores the importance of viewing international human rights law as part of a dynamic and multi-layered system rather than as a static set of legal rules. The interaction between international monitoring mechanisms, domestic institutions, civil society actors, and political processes creates a complex environment in which treaty obligations are continuously interpreted, contested, and implemented. Within this framework, the impact of treaties cannot be assessed solely based on formal ratification or immediate compliance. Instead, it must be understood as emerging through ongoing processes of engagement, negotiation, and institutional development.

Recent scholarship has therefore shifted toward examining the domestic contexts within which international human rights norms operate. This approach recognises that the effectiveness of treaties is deeply influenced by the institutional, political, and social environments of individual states. By analysing how domestic actors interpret and implement treaty obligations, scholars are better able to identify the conditions under which international law can meaningfully shape state behaviour.

Within this analytical framework, the domestic impact of international human rights treaties is conceptualised as the outcome of complex interactions between international norms and a diverse range of domestic institutions. Courts, legislatures, administrative bodies, and civil society organisations all play distinct yet interconnected roles in this process. Courts may incorporate international standards into their reasoning when interpreting constitutional or statutory provisions. Legislatures may enact laws that give formal legal effect to treaty obligations. Administrative agencies may develop policies and regulatory frameworks that operationalise these standards within specific sectors.

At the same time, civil society actors continue to play a critical role in mobilising around treaty commitments, influencing public discourse, and advocating for reform. Their engagement ensures that international legal standards remain embedded within domestic political debates and institutional practices. Through this combination of legal, political, and social processes, international human rights norms are gradually internalised within domestic governance systems.

This perspective highlights the importance of institutional pathways in shaping the translation of international obligations into domestic realities. Rather than being immediately absorbed upon ratification, treaty commitments typically undergo processes of interpretation, adaptation, and gradual integration. Over time, through continuous interaction with international standards, domestic institutions may align their practices with treaty obligations, leading to the progressive embedding of human rights norms within national legal and governance frameworks.

In this sense, ratification is increasingly understood not as the final stage of engagement with international law but as the starting point of a longer and more complex domestic process. It marks the beginning of a trajectory through which international norms are translated into concrete legal protections, institutional practices, and governance outcomes that shape the lived experience of human rights within national contexts.

Within contemporary scholarship, growing attention is directed toward the function of domestic institutions as the critical bridge linking international legal obligations to their practical expression within national systems. Rather than operating in isolation, international human rights norms depend heavily on these institutions for their translation into enforceable standards and lived realities. Legislative bodies, in particular, occupy a foundational position in this process, as they are constitutionally mandated to enact laws that formally incorporate treaty provisions into

domestic legal orders. Through this legislative function, abstract international commitments are converted into concrete statutory frameworks, accompanied by the creation of enforcement mechanisms and institutional structures necessary for implementation.

Judicial institutions complement this legislative role by interpreting and applying both domestic and international legal standards within specific cases. Courts frequently engage with international human rights principles when construing constitutional provisions or statutory laws, thereby ensuring that domestic legal reasoning remains aligned with broader global norms. This interpretive function not only enhances consistency between domestic and international legal frameworks but also contributes to the gradual integration of international standards into national jurisprudence. In many jurisdictions, judicial reliance on international law has become an important avenue through which human rights protections are strengthened, particularly in contexts where legislative incorporation remains incomplete.

Administrative bodies further extend this process by operationalising legal obligations within the day-to-day functioning of government. These agencies are responsible for translating legal standards into policies, regulations, and programmes across key sectors such as labour governance, gender equality, healthcare delivery, education systems, and social welfare. Through regulatory enforcement, service delivery, and institutional oversight, administrative actors ensure that legal commitments are reflected in practical governance measures. The coordinated interaction between legislative, judicial, and administrative institutions therefore plays a decisive role in transforming international legal obligations into tangible protections that shape the lived experiences of individuals (Hillebrecht, 2023; Linos & Pegram, 2022).

At the same time, emerging research underscores the importance of domestic political dynamics in determining how effectively treaty obligations are implemented. The incorporation of international norms into national systems is not merely a technical or legal exercise; it is inherently political, shaped by competing interests, policy priorities, and governance realities. Governments may choose to emphasise certain obligations while delaying or downplaying others, depending on ideological orientations, electoral considerations, or perceived economic and social costs associated with compliance.

In addition, structural constraints such as limited financial resources, competing development objectives, and shifting political agendas can significantly influence the pace and depth of implementation. These factors highlight that treaty effectiveness is not solely a function of legal commitment but is deeply embedded within broader political environments. As a result, scholars increasingly advocate for analytical approaches that account for the interaction between legal frameworks and political contexts, recognising that implementation outcomes are mediated by political will, institutional incentives, and governance structures (Hafner-Burton, 2023; De Schutter, 2023).

Building on this understanding, the literature identifies several interconnected determinants that shape whether treaty ratification and domestication result in meaningful improvements in human rights protection. One of the most significant of these is the nature of the domestic legal system, particularly the distinction between monist and dualist traditions. Legal systems that provide streamlined and clearly defined mechanisms for incorporating international law into domestic legislation tend to facilitate more effective enforcement. In such contexts, individuals and institutions are better able to invoke treaty provisions before national courts and administrative

bodies. Conversely, in systems where incorporation requires extensive legislative procedures without sufficient institutional support, delays and gaps in implementation are more likely to occur (Klabbers, 2022).

Institutional capacity represents another crucial factor influencing treaty effectiveness. The successful implementation of international obligations requires institutions equipped with adequate expertise, resources, and organisational capability. This includes the ability to draft legislation, enforce compliance, monitor performance, and respond effectively to recommendations from international monitoring bodies. Where institutions lack sufficient capacity, even well-intentioned legal commitments may fail to translate into practical outcomes. Weak coordination among agencies, limited technical expertise, and resource constraints can all contribute to implementation challenges. Consequently, strengthening institutional capacity is widely regarded as essential for bridging the gap between international commitments and domestic realities (Linos & Pegram, 2022; Hillebrecht, 2023).

Equally important is the role of political commitment in shaping the trajectory of treaty implementation. Governments that prioritise human rights within their policy agendas are more likely to undertake the necessary reforms, allocate resources, and engage constructively with international mechanisms. Such commitment is often reflected in active participation in reporting processes, responsiveness to international recommendations, and the integration of human rights considerations into national development strategies. In contrast, where political will is limited or inconsistent, treaty obligations may remain largely symbolic, with minimal impact on governance practices. This highlights the significance of leadership, accountability mechanisms, and

normative alignment in driving effective implementation (Hafner-Burton, 2023; De Schutter, 2023).

International monitoring mechanisms also play an influential role in shaping domestic implementation processes. Through periodic reporting, country reviews, and the issuance of recommendations, treaty bodies provide guidance that can inform legislative reforms, institutional strengthening, and policy development. These mechanisms facilitate ongoing engagement between international institutions and domestic actors, creating opportunities for reflection, learning, and adaptation. By identifying shortcomings and proposing corrective measures, monitoring bodies help maintain attention on human rights obligations and encourage continuous improvement in domestic governance practices (Hillebrecht, 2023; Linos & Pegram, 2022).

Within this broader framework, treaty effectiveness is best understood as a dynamic and evolving process rather than a single legal event. Ratification establishes the formal basis for international obligations, but it is only the initial step in a much longer trajectory of implementation. The realisation of treaty commitments depends on sustained interaction between multiple elements, including legislative action, judicial engagement, administrative implementation, institutional capacity, and political will.

Contemporary scholarship therefore emphasises the need to examine these processes holistically, recognising that the influence of international human rights law is ultimately shaped by the complex interplay between global norms and domestic institutional realities. Through this lens, the domestication and implementation of treaties emerge as continuous processes of negotiation, adaptation, and institutional development, through which international legal standards are gradually embedded within national governance systems.

### **2.8.2. Effectiveness of the Institutional Framework for Ratification and the Domestication of Human Rights Treaties**

This section undertakes a critical analysis of the effectiveness of national institutional arrangements that govern the ratification and domestic incorporation of international treaties. Central to this inquiry is the identification and evaluation of the key actors and duty bearers involved at different stages of the treaty lifecycle, from initial approval to eventual implementation within domestic legal systems. By examining the roles, procedures, and institutional capacities of these actors, the analysis seeks to assess how international legal commitments are transformed into enforceable domestic norms. This requires a careful exploration of how institutional frameworks operate in practice, the extent to which they facilitate or hinder implementation, and the structural challenges that may arise during the domestication process. Accordingly, this section draws on existing scholarship to analyse both the institutional architecture underpinning treaty ratification and the practical effectiveness of these mechanisms.

The ratification of international treaties is a multi-layered process that involves a diverse set of actors operating across different institutional levels. These actors perform interdependent functions that collectively shape how treaties are received, interpreted, and integrated into domestic systems. One of the earliest and most significant stages in this process involves the dissemination of information and the creation of awareness among relevant stakeholders. This preliminary phase plays a crucial role in facilitating informed engagement, encouraging deliberation, and allowing various actors to assess the implications of the proposed treaty. By enabling dialogue and consultation, this stage contributes to building consensus and identifying potential challenges before formal ratification occurs.

Miaz (2024), in his detailed examination of Switzerland's treaty ratification procedures, provides a useful illustration of how structured consultation mechanisms can enhance the inclusiveness and effectiveness of the ratification process. In the Swiss context, ratification is preceded by a formal consultation phase that brings together a wide array of domestic actors, including federal authorities, members of Parliament, political parties, and organised interest groups. This pre-legislative engagement is designed to ensure that diverse perspectives are considered and that potential legal, administrative, and political implications are thoroughly examined prior to parliamentary approval. Such a system reflects an institutionalised commitment to participatory governance and demonstrates how consultation processes can contribute to more informed and legitimate decision-making.

A key feature of this approach is the preparation and circulation of a "Preliminary Project and Explanatory Report," which serves as a comprehensive document outlining the substantive provisions of the treaty. According to Miaz (2024), this report provides detailed analysis of the treaty's content, particularly highlighting areas that fall within the jurisdiction of federal authorities. In addition to explaining the legal dimensions of the treaty, the report assesses its potential practical implications, including financial costs, administrative requirements, and human resource considerations. This level of detail allows stakeholders to evaluate the feasibility of implementation and to anticipate the adjustments required within domestic systems. By clarifying these aspects, the consultation process contributes to aligning international obligations with national capacities and policy priorities.

Beyond its informational function, the consultation phase also plays a strategic role in shaping how treaties are perceived and managed within domestic institutional contexts. Miaz (2024) observes that where a state is already largely compliant with the provisions of a treaty,

authorities may adopt a less rigorous review process, potentially minimising the perceived implications of ratification. This dynamic highlights how institutional actors may influence the framing of treaty commitments, either by emphasising their benefits or downplaying their challenges. As such, consultation processes can serve not only as mechanisms for participation but also as tools through which governments navigate political and institutional considerations associated with ratification. This underscores the importance of ensuring that such processes remain transparent, balanced, and genuinely inclusive.

Following the completion of stakeholder consultations, the Swiss system requires formal parliamentary approval before a treaty can be ratified. Under Article 166(2) of the Federal Constitution of Switzerland, Parliament is vested with the authority to approve international treaties, except in specific cases where such authority is delegated to the Federal Council. This stage represents a critical point in the ratification process, as it embeds democratic oversight and ensures that elected representatives scrutinise the implications of international commitments. Once Parliament grants approval, the treaty is publicly announced through publication in the Gazette, thereby enhancing transparency and informing the broader public. The Federal Council subsequently formalises ratification, after which the treaty is published in the Official Compendium of Swiss Federal Law, including details regarding its entry into force (Miaz et al., 2024).

Scholars such as Miaz et al. (2024) highlight the effectiveness of this multi-stage process in reducing institutional resistance and fostering informed decision-making. By incorporating consultation and parliamentary review, the Swiss model enables comprehensive examination of treaties from multiple perspectives, including legal, political, and administrative considerations. This inclusive framework enhances accountability and transparency, ensuring that treaties are not

adopted without adequate domestic scrutiny. Although Switzerland's federal structure presents unique institutional characteristics, the broader principles underlying this approach such as stakeholder engagement and legislative oversight remain relevant across different governance systems, including unitary states like Uganda.

The role of Parliament is particularly significant in conferring democratic legitimacy on the ratification process. As Koivurova and Stepien (2018) argue, legislative involvement ensures that international treaties undergo rigorous scrutiny and that their implications for domestic governance are carefully evaluated. Parliamentary oversight enables consideration of how treaties may affect public policy, national interests, and legal frameworks. However, the extent of parliamentary participation varies across jurisdictions. In some countries, legislative approval is required only for treaties of major significance, while others permit executive ratification without direct parliamentary involvement (International Treaty Making Guide, 2021). Expanding parliamentary engagement in treaty processes has therefore been identified as an important mechanism for strengthening democratic accountability and enhancing the quality of decision-making.

In the Ugandan context, the legal framework governing treaty ratification reflects similar principles, although it operates within a distinct constitutional and institutional setting. As explained by Mujuzi (2022), Article 2 of the Constitution establishes the supremacy of the Constitution over all other laws, thereby ensuring that international obligations must be consistent with constitutional provisions. This principle reinforces the central role of domestic law in mediating the application of international treaties. Furthermore, Uganda's foreign policy framework emphasises adherence to international legal standards, indicating a formal commitment to integrating treaty obligations into national governance.

The Ratification of Treaties Act provides a statutory framework that outlines the procedures for ratifying international agreements, in line with Article 123 of the Constitution. This legislation defines the roles of various state institutions, including the executive and Parliament, in the ratification process. By codifying these procedures, the Act establishes a structured mechanism through which international commitments are evaluated and incorporated into domestic law. While not identical to the Swiss model, Uganda's framework similarly reflects an effort to institutionalise the ratification process and ensure that treaties are subjected to domestic scrutiny prior to implementation.

In addition to the role played by Parliament, the executive arm of government, and particularly the Cabinet, occupies a central position in the treaty ratification process. In many jurisdictions, including Uganda, the Cabinet exercises primary authority in approving and ratifying international agreements. However, this authority is not absolute, as it is subject to procedural safeguards designed to preserve democratic accountability. One such safeguard is the requirement that treaties ratified by the executive must subsequently be submitted to Parliament within a reasonable timeframe. This obligation ensures that the legislature retains oversight over international commitments and that the ratification process does not remain exclusively within the control of the executive branch (Ratification of Treaties Act, Uganda, 2019). By mandating this interaction between the executive and legislative arms, the legal framework promotes a balance of institutional power and reinforces transparency in the management of international obligations.

Furthermore, the involvement of the Attorney General introduces an additional layer of constitutional scrutiny within the ratification process. Where the Attorney General determines that the implementation of a treaty would necessitate amendments to the Constitution, such amendments must be approved through established legislative procedures before the treaty can be

effectively domesticated. This requirement ensures that international commitments are harmonised with the supreme law of the state and prevents conflicts between treaty obligations and constitutional provisions. As noted by Mujuzi (2022), this procedural safeguard embeds constitutional compliance at the heart of the ratification framework, thereby reinforcing the primacy of domestic legal order while still accommodating international obligations.

Despite the existence of these structured procedures, a persistent concern identified in the literature is the slow and often inconsistent pace at which treaties, particularly those relating to human rights, are incorporated into domestic legal systems. Numerous scholars have pointed to political factors as a primary explanation for these delays. A recurring theme is the absence of sustained political commitment among key actors, including policymakers and institutional leaders, which significantly hampers the domestication process (Kibirige et al., 2021; Mukwaya, 2019; Tindyebwa, 2020). In many cases, governments may be hesitant to fully implement treaty obligations due to concerns about their potential impact on national sovereignty, governance structures, or existing policy frameworks. Additionally, apprehension about public reaction or political backlash may further discourage decisive action, leading to prolonged delays in legislative incorporation.

This lack of political momentum often results in a disconnect between formal ratification and practical implementation, thereby limiting the transformative potential of international human rights instruments within domestic contexts. While treaties may be adopted at the international level, their benefits remain unrealised when corresponding domestic measures are not undertaken in a timely and effective manner. As a result, the gap between international commitments and national practice continues to pose a significant challenge in many jurisdictions.

In response to these challenges, civil society organisations have emerged as important actors in advocating for more effective treaty implementation. These organisations frequently engage in awareness-raising initiatives aimed at educating both the public and policymakers about the legal significance of treaty obligations and the importance of their domestication. According to Wamala (2020), civil society actors emphasise that treaty implementation should not be viewed merely as a procedural requirement but as a substantive obligation that directly affects the protection and promotion of human rights. Through advocacy campaigns, policy engagement, and public education, these organisations contribute to fostering accountability and encouraging governments to fulfil their international commitments.

The involvement of civil society also enhances transparency by bringing attention to delays, gaps, and inconsistencies in the domestication process. By monitoring government actions and engaging with institutional actors, civil society organisations help to ensure that treaty obligations remain part of ongoing national discourse. Their role is particularly important in contexts where political will is limited, as they can act as catalysts for reform and as watchdogs that hold state institutions accountable.

These dynamics illustrate that treaty ratification and domestication are shaped by a complex interaction of institutional structures, political considerations, and societal engagement. The effectiveness of the process depends not only on the existence of formal legal frameworks but also on the degree to which institutions function cohesively, political actors demonstrate commitment, and civil society remains actively involved. Strengthening these interconnections is therefore essential for addressing existing challenges and ensuring that international human rights treaties achieve their intended impact within domestic legal systems.

### **2.8.3 Consistency of Domestic Laws with International Human Rights Treaties**

This section undertakes a critical assessment of the degree to which domestic legal frameworks correspond with international human rights instruments, with particular emphasis on the obligations imposed upon States to recognise, respect, and safeguard human rights within their jurisdictions. Fulfilling these obligations requires more than formal participation in the international legal system; it necessitates the effective translation of treaty commitments into domestic legal norms that can be invoked and enforced at the national level. As Mbaku (2023) observes, the act of signing and ratifying human rights treaties must be accompanied by deliberate efforts to incorporate their provisions into domestic law, thereby transforming abstract international standards into concrete rights accessible to individuals through national courts. This process of incorporation is essential because it operationalises international commitments, ensuring that they have tangible legal consequences within the State's territory rather than remaining purely symbolic.

The integration of international human rights instruments into domestic law serves as a critical link between global norms and local enforcement. Without such incorporation, individuals may lack effective legal remedies, even where States have formally accepted international obligations. Consequently, national legislation must reflect the substantive content of relevant United Nations human rights treaties in order to guarantee that these rights are both protected and justiciable. The absence of such alignment often results in a disconnect between international commitments and domestic realities, thereby undermining the effectiveness of the human rights regime at the national level.

In addition to its domestic implications, the legislative framework governing treaty incorporation also intersects with broader foreign policy considerations. Legal measures adopted

at the national level may influence a State's international posture, particularly in relation to its credibility and consistency in fulfilling treaty obligations. These frameworks are generally expected to conform to foundational principles of international law, including those articulated in the Vienna Convention on the Law of Treaties, which establishes rules governing the formation, interpretation, and application of treaties. Compliance with these principles ensures that States adhere to recognised standards of treaty behaviour, thereby reinforcing the integrity of the international legal system.

Many constitutional systems explicitly define the relationship between international law and domestic law, providing guidance on how treaty obligations are to be integrated into national legal orders. In some jurisdictions, constitutional provisions stipulate that ratified treaties become binding sources of law within the domestic system, subject only to the supremacy of the constitution itself. As noted by Dubakeme, Folarin, and Oni (2023), this hierarchical arrangement places international treaties above ordinary legislation while preserving the primacy of constitutional norms. Such frameworks highlight the dual imperative of respecting international commitments while maintaining constitutional coherence within the domestic legal system.

From a theoretical standpoint, the interaction between international treaties and domestic law is often analysed through the lens of dualism. This doctrine maintains that international law and domestic law operate as distinct legal systems, requiring explicit legislative action before treaty provisions can take effect within national jurisdictions (Aust, 2013). Under this approach, ratification alone does not suffice to render treaty obligations enforceable domestically; instead, States must enact implementing legislation or rely on judicial interpretation to give practical effect to these obligations. The extent to which courts can apply treaty provisions directly therefore depends on the specific constitutional and legal traditions of each State. In systems that permit

direct application, the substance and interpretation of treaty provisions play a decisive role in shaping judicial outcomes, enabling courts to enforce international norms without the need for additional legislative intervention (Henkin, 2010).

Judicial engagement represents one of the most significant mechanisms through which alignment between international and domestic law can be achieved. Courts serve as key intermediaries in translating international human rights standards into enforceable domestic rights. In Uganda, the judiciary has demonstrated an increasing willingness to draw upon international human rights instruments when interpreting constitutional provisions and adjudicating disputes. A notable example is the case of *Muwanga Kivumbi v. Attorney General*, in which the Constitutional Court affirmed the relevance of the International Covenant on Civil and Political Rights within the domestic legal framework. The Court recognised that, even in the absence of explicit legislative incorporation, the principles contained in the Covenant could inform constitutional interpretation and guide judicial reasoning. This decision marked an important development in Uganda's jurisprudence, signalling a more progressive and integrative approach to international human rights law.

A similar trajectory can be observed in *Foundation for Human Rights Initiative v. Attorney General*, where the Court acknowledged the applicability of the Convention against Torture within the domestic legal system. In this case, the judiciary emphasised the State's obligation to give effect to its international commitments and interpreted domestic law in a manner consistent with the prohibition of torture. Such decisions illustrate the judiciary's capacity to bridge gaps between international obligations and domestic enforcement, thereby enhancing the practical relevance of human rights treaties within national contexts.

The process of integrating international treaties into domestic legal systems is inherently complex and often uneven. While some States demonstrate a high degree of alignment between international obligations and domestic law, others exploit gaps in incorporation to avoid full compliance. Mbaku (2023) argues that failure to domesticate treaty provisions, particularly after formal approval of the treaty text, may reflect bad faith or a deliberate attempt to evade international responsibilities. This raises important concerns about the credibility of States that invoke procedural delays as justification for non-compliance, thereby undermining the spirit of international cooperation and the principle of *pacta sunt servanda*.

Uganda offers a compelling illustration of these dynamics. The country ratified the International Covenant on Economic, Social and Cultural Rights in 1987 and has made notable efforts to align its domestic legal framework with the Covenant's provisions. However, significant gaps remain, particularly in relation to the implementation of the principle of non-discrimination, which is central to the Covenant's framework. Reports from the United Nations Human Rights Committee indicate that these shortcomings continue to affect the realisation of economic and social rights within the country. This situation highlights the challenges associated with translating international commitments into effective domestic protections, particularly where legal reforms are incomplete or inconsistently applied.

Empirical studies further illuminate the practical challenges of implementation. For example, Golooba-Mutebi's (2018) analysis of Uganda's Universal Primary Education programme demonstrates the State's efforts to fulfil obligations under the Convention on the Rights of the Child. While the programme has significantly increased school enrolment, persistent issues such as inadequate infrastructure and limited resources continue to hinder the delivery of

quality education. These findings underscore the importance of not only expanding access but also ensuring that the substantive quality of services meets international standards.

Similarly, research by Barungi and Kasente (2018) on the National Social Security Fund highlights both progress and limitations in the protection of labour rights. Although the scheme provides important financial benefits to workers, challenges related to enforcement and coverage remain evident. Strengthening legislative frameworks and improving compliance mechanisms are therefore necessary to ensure that national policies align more closely with international human rights standards.

Housing remains another area where gaps between international obligations and domestic realities are apparent. Reports by the Uganda Human Rights Commission indicate that a substantial portion of the population continues to live in inadequate housing conditions, particularly in informal settlements. These findings point to the need for more robust legal protections and policy interventions to address structural inequalities and ensure the realisation of the right to adequate housing.

A closer examination of Uganda's domestic legal framework reveals an uneven level of alignment with the International Covenant on Economic, Social and Cultural Rights. While certain legislative instruments demonstrate a reasonable degree of conformity with the Covenant, others continue to present notable inconsistencies that undermine the full realisation of protected rights. Ocheng and Matovu (2020), in their analysis of Uganda's labour-related legal regime, observe that foundational statutes such as the Constitution, the Employment Act, and the Minimum Wages Act broadly reflect the principles and obligations articulated under the Covenant. These laws establish baseline protections relating to employment conditions, remuneration, and labour standards, thereby contributing to the progressive realisation of socio-economic rights.

However, their study also identifies significant shortcomings within other legislative instruments, particularly the Industrial Court Act and the Labour Unions Act. These laws impose limitations on workers' ability to freely organise, unionise, and engage in collective bargaining, rights that are explicitly recognised under international human rights law. Such restrictions not only weaken labour protections but also illustrate the fragmented nature of Uganda's domestication efforts, where alignment with international standards is partial rather than comprehensive. The authors therefore advocate for targeted legislative reform to address these inconsistencies, emphasising that meaningful compliance requires harmonisation across the entire legal framework rather than isolated areas of conformity.

The health sector presents a similarly complex picture, characterised by both progress and persistent structural challenges. Naluwairo and Ojambo (2021) note that Uganda has made measurable advances in expanding access to healthcare services, reflecting a degree of commitment to fulfilling its obligations under the Covenant. Nevertheless, these improvements remain unevenly distributed, with rural and marginalised communities continuing to experience limited access to essential health services. Infrastructure deficits, shortages of medical personnel, and resource constraints further exacerbate these disparities. The authors argue that addressing these gaps requires not only increased public investment but also stronger legal and policy frameworks capable of guaranteeing equitable access to healthcare. Without such reforms, the right to health risks remaining aspirational rather than fully realised in practice.

Uganda's obligations under the International Covenant on Civil and Political Rights, ratified in 1995, introduce an additional layer of legal responsibility, particularly in relation to civil and political freedoms. Despite this formal commitment, significant challenges persist in the implementation of rights associated with education and broader socio-political participation. The

African Centre for Media Excellence (2019) highlights systemic issues within the education sector, including declining quality standards and inadequate infrastructure, which negatively affect completion rates and overall educational outcomes. These deficiencies underscore the need for sustained financial investment and more robust legislative frameworks to ensure that educational rights are not only recognised but effectively realised.

Concerns regarding the compatibility of Uganda's domestic legal framework with its obligations under the Covenant have been consistently raised by oversight bodies. The Uganda Human Rights Commission, in its 2019/2020 annual report, identified several statutes that conflict with the protections guaranteed under the Covenant, particularly those affecting freedoms of expression and assembly. One of the most prominent examples is the Public Order Management Act of 2013, which introduced regulatory measures that significantly restricted the ability of individuals to assemble and express dissent. These provisions were subsequently challenged before the courts, culminating in the landmark case of Human Rights Network Uganda & 4 others v. Attorney General. In this decision, the Constitutional Court declared key provisions of the Act unconstitutional, reaffirming the centrality of freedom of expression and assembly within Uganda's constitutional order. This ruling illustrates the judiciary's critical role in reconciling domestic legislation with both constitutional guarantees and international human rights standards.

Additional concerns have been raised by international and regional human rights organisations regarding the broader legislative landscape. A report by Human Rights Watch (2019) highlights problematic provisions within laws such as the Anti-Pornography Act and the Penal Code Act, noting that certain sections of these statutes are incompatible with rights protected under the Covenant, including privacy, freedom of expression, and protection from discrimination. These inconsistencies point to deeper structural tensions within Uganda's legal system, where certain

domestic laws continue to reflect restrictive or outdated approaches that conflict with contemporary human rights standards.

These concerns were further reinforced during Uganda's review under the Universal Periodic Review conducted by the United Nations Human Rights Council in 2020. In its submission, the African Centre for Human Rights and Development documented ongoing failures to fully harmonise domestic legislation with international obligations. The report identified several laws, including the Public Order Management Act, the Computer Misuse Act, and the Anti-Terrorism Act, as containing provisions that impose disproportionate limitations on fundamental freedoms such as expression, assembly, and privacy. These findings highlight the persistence of legislative inconsistencies that undermine the effective protection of civil and political rights.

The recommendations arising from the review process underscore the urgent need for comprehensive legal reform. Uganda has been encouraged to undertake systematic reviews of its legislative framework with a view to amending or repealing provisions that are incompatible with its international obligations. Achieving such alignment is essential not only for safeguarding fundamental rights but also for maintaining the credibility of the State within the international human rights system. Failure to address these inconsistencies risks perpetuating a gap between formal commitments and practical implementation, thereby weakening both the rule of law and the protection of individual rights within the country.

#### **2.8.4 Implications of Being a State Party to a Human Rights Treaty**

Self-reporting mechanisms constitute a central component of contemporary regulatory and human rights governance systems, particularly within regional and international treaty frameworks. Within the European Union, for example, compliance monitoring is largely dependent on information submitted by national authorities themselves. Instead of relying

predominantly on coercive enforcement strategies, the system is characterised by the use of softer regulatory approaches, including transparency frameworks, peer evaluation processes, and structured information exchange. These approaches are designed to cultivate cooperation among member States by encouraging voluntary adherence to agreed standards rather than imposing strict sanctions. Through continuous cycles of reporting and feedback, regulatory institutions are able to track implementation progress, detect deficiencies, and promote the sharing of effective policy approaches across jurisdictions.

An important feature of this model lies in its inclusivity. The reporting process typically extends beyond central government institutions to involve a broad network of stakeholders, including public agencies, ministerial officials, legislators, civil society organisations, and media actors. This multi-actor engagement enhances the credibility and depth of the information generated, while also creating additional layers of accountability. Stakeholders outside the executive branch contribute independent perspectives, monitor government performance, and advocate for necessary reforms. As a result, self-reporting becomes not merely a technical exercise but a dynamic process that influences domestic policy priorities and governance practices (Creamer and Simmons, 2020). Although the European model is often cited as a leading example, similar principles are reflected in global human rights monitoring systems, including those applicable to Uganda's obligations under United Nations treaties.

Once a State becomes party to a human rights treaty within the United Nations system, it assumes a binding obligation to submit periodic reports detailing how it is implementing the rights and duties contained in that instrument. Under the supervision of bodies such as the Office of the United Nations High Commissioner for Human Rights, States are generally required to submit an initial report within a relatively short period after the treaty becomes operative at the domestic

level, followed by subsequent reports at regular intervals determined by the relevant monitoring committee. This recurring reporting cycle serves multiple purposes. It provides a structured account of legislative, administrative, and policy measures undertaken by the State, while also identifying ongoing challenges, institutional gaps, and areas requiring further intervention.

Beyond its monitoring function, the reporting process plays a crucial role in promoting transparency and encouraging public engagement. Ideally, the preparation of reports should involve consultation with a wide range of domestic actors, including non-governmental organisations, community groups, and human rights defenders. This participatory dimension helps ensure that the information presented reflects diverse perspectives rather than solely the official government narrative. In some jurisdictions, governments integrate civil society submissions into their reports, thereby presenting a more comprehensive assessment of the national human rights situation. In other cases, reports are subjected to parliamentary scrutiny prior to submission, reinforcing democratic oversight. Once finalised, the reports are transmitted to the United Nations system for review by treaty bodies, which subsequently engage in dialogue with State representatives and issue recommendations (OHCHR, 2020; Creamer and Simmons, 2020).

The participatory and transparent nature of this reporting framework underscores its broader significance within the international human rights system. Although the mechanism relies heavily on the cooperation and good faith of States, it incorporates multiple safeguards that enhance accountability. The involvement of diverse stakeholders, coupled with international review procedures, helps to ensure that reporting does not remain a purely formal obligation but instead contributes to substantive evaluation and reform. In this sense, self-reporting operates as a bridge between international standards and domestic implementation, reinforcing the practical relevance of human rights commitments.

The obligation to report is rooted in both legal and normative considerations that arise once a State ratifies a treaty. Reporting is not simply an administrative requirement but forms an integral element of the broader accountability structure within international law. By undertaking periodic reporting, States engage in a process of continuous self-assessment, evaluating the extent to which they are meeting their obligations. This practice can also be interpreted through the lens of rationalist theories of international behaviour. According to Rational Choice Theory, as discussed by Opp (2021), States act strategically and are more likely to comply with international obligations when doing so aligns with their interests. Reporting, therefore, can serve as a mechanism through which States maintain international credibility, attract cooperation or assistance, and minimise reputational risks associated with non-compliance.

At the same time, the reporting process carries important domestic implications. It creates opportunities for scrutiny by civil society, academic institutions, and the media, thereby strengthening internal accountability mechanisms. According to the Office of the United Nations High Commissioner for Human Rights (2021), reporting should facilitate constructive dialogue between governments and non-state actors, promoting collaborative approaches to addressing human rights challenges. Through this engagement, reporting becomes a platform for identifying policy gaps, shaping reform agendas, and encouraging more inclusive governance practices.

Uganda's engagement with these reporting obligations is reflected in its submission of combined periodic reports to regional and international bodies. For instance, the country's 6th to 8th periodic report to the African Commission on Human and Peoples' Rights in 2023 outlines various legislative and institutional measures adopted to promote human rights. These include the enactment of laws aimed at strengthening rights protection and the establishment of institutional frameworks designed to enhance oversight and accountability. Such developments indicate a level

of commitment to aligning domestic governance structures with regional and international standards.

However, the report also acknowledges persistent challenges that continue to affect the realisation of rights, particularly in the area of economic and social rights. Constraints related to financial resources, infrastructure, and administrative capacity remain significant barriers to implementation. These limitations highlight an important dimension of treaty compliance that extends beyond legal commitment. While political willingness is essential, effective implementation often depends on the availability of resources and institutional capacity to translate legal obligations into tangible outcomes. This reality illustrates the broader complexity of human rights governance, where formal commitments must be supported by practical measures in order to achieve meaningful impact.

Contemporary reporting procedures within the United Nations human rights system have undergone significant transformation, evolving toward greater efficiency, clarity, and substantive engagement. Under most treaty frameworks, States are required to submit an initial report within a relatively short timeframe after ratification, typically ranging from one to two years, followed by periodic submissions at intervals determined by the relevant monitoring body. In response to longstanding concerns about delays, inconsistencies, and overly burdensome reporting requirements, treaty bodies operating under the Office of the United Nations High Commissioner for Human Rights have introduced a number of procedural innovations designed to improve both the quality and timeliness of submissions.

One of the most notable developments is the adoption of the “list of issues prior to reporting” procedure. Through this mechanism, States receive a targeted set of questions identifying priority areas of concern before preparing their reports. This approach shifts the process

from a general narrative format to a more focused and analytical exercise, enabling governments to address specific implementation gaps while reducing unnecessary repetition. In parallel, simplified reporting procedures have been introduced to streamline the process, minimise administrative burdens, and encourage States to prioritise substantive content over procedural formalities. These reforms reflect broader efforts driven by the United Nations General Assembly to enhance the effectiveness, coherence, and accessibility of treaty body processes across different human rights instruments (OHCHR, 2021; Creamer and Simmons, 2020).

Participation in international human rights reporting frameworks also carries significant political and diplomatic advantages. As noted by Finnemore (2019), States often engage with these mechanisms not only out of legal obligation but also as a means of signalling adherence to internationally recognised norms. Active participation in reporting processes can enhance a State's credibility and legitimacy within the global community. Moreover, compliance with reporting obligations may facilitate access to technical support, capacity-building initiatives, and development cooperation programmes coordinated through international institutions. Constructive engagement with treaty bodies can therefore contribute to strengthening diplomatic relations, attracting external funding, and reinforcing a State's standing in international affairs.

Despite these potential benefits, States do not uniformly embrace all aspects of the international human rights regime. Uganda's decision not to ratify certain instruments, such as the International Convention for the Protection of All Persons from Enforced Disappearance, illustrates the selective nature of treaty engagement. As Keller and Walthe (2019) observe, governments frequently justify such decisions by citing concerns related to sovereignty, domestic legal compatibility, and potential political repercussions. In Uganda's case, reluctance may also stem from apprehension about increased international scrutiny, particularly in relation to sensitive

issues such as governance practices, security operations, and civil liberties. Bantekas (2022) argues that some governments deliberately limit their treaty commitments in order to avoid heightened accountability for domestic practices that may conflict with international standards. From this perspective, selective ratification can be understood as a strategic approach that balances participation in the international system with the desire to retain control over internal political dynamics.

Efforts to strengthen the effectiveness of the treaty reporting system have also focused on enhancing the capacity of States to fulfil their obligations. The Office of the United Nations High Commissioner for Human Rights has played a central role in this regard by developing programmes aimed at improving institutional readiness and technical expertise. These initiatives include regional training workshops, seminars, and capacity-building sessions designed for government officials and other stakeholders involved in report preparation. Such programmes provide guidance on data collection, report drafting, and stakeholder consultation, thereby promoting more accurate and comprehensive reporting practices (OHCHR, 2020).

A key milestone in these capacity-building efforts was the publication of the Practical Guide for Reporting and Follow-Up in 2016. This resource offers detailed instructions on how States can structure their reports, respond effectively to treaty body questions, and implement recommendations arising from concluding observations. Beyond its technical utility, the guide encourages States to adopt a reflective and results-oriented approach, using the reporting process as an opportunity to evaluate policy effectiveness and identify areas for reform. In this sense, reporting is reframed not merely as a compliance obligation but as a tool for improving governance and advancing human rights outcomes.

In addition to strengthening government capacity, the OHCHR has actively promoted the establishment of national coordination mechanisms to support reporting and follow-up processes. These mechanisms typically bring together a range of actors, including ministries, parliamentary bodies, national human rights institutions, and civil society organisations, to facilitate collaboration and information sharing. Such coordinated approaches help ensure consistency in reporting, enhance institutional accountability, and foster a more inclusive process that reflects diverse societal perspectives. The involvement of civil society is particularly গুরুত্বপূর্ণ, as it enables the representation of marginalised groups and provides independent assessments of government performance (OHCHR, 2021).

National human rights institutions also play a critical intermediary role within this framework. By engaging with both domestic stakeholders and international treaty bodies, these institutions contribute to the production of independent and credible assessments of human rights conditions. As highlighted by Bantekas and Oette (2020), their participation helps ensure that reporting processes are not dominated solely by official narratives but instead incorporate a broader range of perspectives. The strengthening of collaboration between governments, civil society, and national institutions represents an important step toward embedding human rights commitments within domestic governance systems.

These developments illustrate how the effectiveness of international human rights treaties is closely linked to the interaction between international mechanisms and domestic institutional frameworks. Reporting obligations, capacity-building initiatives, and coordination mechanisms all contribute to bridging the gap between formal commitments and practical implementation. They also reinforce the role of national institutions in translating international norms into enforceable rights and policies. Through sustained engagement with these processes, States are better

positioned to align domestic legal systems with international standards, enhance accountability, and promote the protection of fundamental rights within their jurisdictions.

## **2.9 Continental Instruments**

Regional human rights frameworks are widely regarded as one of the most significant achievements in international law during the twentieth century. The global system for promoting and protecting human rights heavily relies on these regional institutions. Such regional systems offer enforcement procedures that are better aligned with local contexts compared to a universal enforcement approach.

### **2.9.1 African Charter on Human and Peoples Rights**

This section undertakes a detailed examination of scholarly literature on continental human rights frameworks, with particular focus on the African Charter on Human and Peoples' Rights. As the principal legal instrument underpinning the African regional human rights system, the Charter occupies a foundational position in shaping both normative discourse and enforcement practices across the continent. Its adoption marked a transformative moment in the development of region-specific human rights protections, reflecting an effort to integrate universal legal standards with African historical, cultural, and philosophical perspectives.

The Charter, commonly known as the Banjul Charter, was adopted in 1981 during the 18th Ordinary Session of the Assembly of Heads of State and Government of the Organisation of African Unity, which later evolved into the African Union. This achievement followed an extended period of advocacy and negotiation involving African states, international institutions, and civil society actors committed to establishing a distinctly African human rights regime. The Charter

entered into force on 21 October 1986, subsequently becoming the central legal framework guiding regional human rights governance and accountability (Viljoen, 2012).

A major institutional innovation introduced by the Charter is the creation of the African Commission on Human and Peoples' Rights, established under Article 30. The Commission was mandated to promote and protect human and peoples' rights across the continent, thereby providing an institutional mechanism for oversight and enforcement. Since commencing operations in 1987, the Commission has served as a key platform for monitoring State compliance, receiving communications, and advancing interpretative guidance on Charter provisions. Its existence reflects an important shift from purely declaratory commitments toward institutionalised accountability within the African human rights system.

The functions of the Commission are elaborated under Article 45, which assigns it a broad and multifaceted mandate. This includes the promotion of human rights through research, education, and dissemination of information; the protection of rights through the examination of complaints and issuance of recommendations; and the interpretation of the Charter's provisions upon request by States or institutions of the African Union. Through these roles, the Commission operates as both a normative and quasi-judicial body, contributing to the development of human rights jurisprudence while also facilitating practical implementation. Additionally, the inclusion of a flexible clause allowing the Assembly of Heads of State to assign further responsibilities ensures that the Commission's mandate can evolve in response to emerging challenges (Murray and Long, 2015).

One of the defining characteristics of the Charter is its distinctive normative orientation, which sets it apart from other regional human rights instruments such as the European Convention

on Human Rights and the American Convention on Human Rights. Unlike these frameworks, which traditionally emphasise individual rights, the African Charter incorporates a broader conception of human rights that includes duties owed by individuals to their communities. This dual emphasis reflects African philosophical traditions that prioritise communal solidarity and collective responsibility alongside individual freedoms.

The Charter's recognition of collective or peoples' rights further reinforces this distinctive approach. Rights such as self-determination, development, and a satisfactory environment are explicitly protected, reflecting historical experiences of colonialism, economic marginalisation, and environmental challenges across the continent. These provisions underscore a deliberate effort to align human rights law with the lived realities of African societies, where communal interests and shared resources often play a central role (Udombana, 2004).

In addition, the Charter's integrative framework demonstrates a conscious attempt to reconcile international human rights norms with indigenous legal traditions. Rather than simply replicating Western legal models, the Charter incorporates elements of African customary values, thereby creating a hybrid system that is both globally relevant and locally grounded. This approach reflects a broader commitment to ensuring that human rights protections resonate within the socio-cultural contexts in which they are applied (Ssenyonjo, 2011).

The African Charter on Human and Peoples' Rights is also notable for its comprehensive scope, encompassing civil and political rights, economic, social, and cultural rights, as well as collective rights within a single legal instrument. This holistic design contrasts with earlier regional systems that initially prioritised civil and political rights while treating socio-economic rights as secondary. By recognising the interdependence of all categories of rights, the Charter reflects an

understanding that human dignity cannot be fully realised without addressing both political freedoms and socio-economic conditions.

Within its provisions, the Charter guarantees fundamental civil and political rights such as the right to life, liberty, fair trial, freedom of expression, and freedom of association, aligning with established international standards. At the same time, it affirms key economic and social rights, including access to education, healthcare, and employment, thereby acknowledging the structural inequalities that affect many African societies (Murray and Long, 2015). The inclusion of these rights highlights the Charter's commitment to a more inclusive and development-oriented conception of human rights.

Equally significant is the Charter's explicit recognition of peoples' rights, which include the rights to development, peace, and a healthy environment. These provisions reflect a broader vision of human rights that extends beyond individual entitlements to encompass collective well-being and sustainable development. In doing so, the Charter captures the interconnected nature of political, economic, and social realities in Africa, reinforcing the principle that human rights must be understood within their broader societal context (Ssenyonjo, 2011).

In analysing patterns of State compliance with the African Charter on Human and Peoples' Rights, D'Orsi (2021) provides a critical perspective on the interaction between international human rights commitments and traditional conceptions of sovereignty. His work examines how the ratification and implementation of the Charter, alongside related instruments such as the Protocol to the African Charter on the Rights of Women in Africa, introduce new legal and political pressures on States to align domestic systems with evolving human rights standards. These instruments do not merely establish abstract norms; they require tangible legal and institutional

adjustments that can reshape national governance structures. In doing so, they often challenge entrenched socio-cultural practices, particularly those relating to gender roles, family structures, and customary law.

D'Orsi's analysis highlights that ratification should not be understood as the endpoint of State engagement but rather as the beginning of a more complex process involving interpretation, adaptation, and implementation within domestic contexts. While ratification signals formal acceptance of international obligations, the practical realisation of those commitments depends on how effectively they are internalised within national legal frameworks. This process frequently exposes tensions between international expectations and domestic autonomy, especially where legal reforms intersect with culturally sensitive issues. As a result, States are often required to balance competing considerations, including adherence to international norms, preservation of cultural identity, and management of domestic political pressures.

Building on this perspective, broader scholarship on human rights compliance consistently emphasises the central role of domestication in determining the effectiveness of international instruments. The incorporation of treaty provisions into domestic law involves translating broad normative commitments into concrete legislative measures, administrative policies, and judicial practices. This transformation is particularly complex in contexts where certain rights, such as gender equality, reproductive autonomy, or non-discrimination, may conflict with deeply rooted cultural or religious norms. As noted by Killander and Adjolohoun (2010), these tensions can generate resistance at both institutional and societal levels, complicating efforts to fully implement treaty obligations.

The Protocol to the African Charter on the Rights of Women in Africa provides a particularly illustrative example of these dynamics. Widely regarded as one of the most progressive regional instruments on women's rights, it sets out comprehensive protections addressing issues such as gender-based violence, reproductive health, and women's participation in public life. However, despite its normative strength, implementation has been uneven across the continent. In some States, provisions of the Protocol have encountered resistance due to perceived inconsistencies with cultural traditions, religious doctrines, or existing legal frameworks. This has resulted in selective implementation, delayed domestication, or the adoption of reservations that limit the scope of obligations.

These challenges raise broader questions about how African States navigate the intersection between regional human rights commitments and domestic sovereignty. The tension is not merely legal but also political and social, as governments must manage public perceptions, institutional capacity, and competing policy priorities. Biegon (2016) notes that the effectiveness of such instruments ultimately depends on the existence of supportive legal frameworks, political will, and institutional mechanisms capable of enforcing rights in practice. Without these elements, even the most progressive treaties risk remaining largely symbolic.

The African Charter on Human and Peoples' Rights represents more than a formal declaration of rights; it constitutes a transformative framework aimed at redefining human rights governance within the African context. Its integration of individual and collective rights, its recognition of socio-economic dimensions of justice, and its incorporation of culturally grounded principles reflect a distinct and context-sensitive approach to human dignity. Nevertheless, the transition from formal commitment to effective implementation remains complex and often contested. Legal reforms must be accompanied by institutional strengthening, societal

engagement, and sustained political commitment in order to bridge the gap between normative aspirations and lived realities. The continued examination of these challenges is therefore essential for understanding how regional human rights systems can achieve meaningful and lasting impact.

## **2.10 Summary of Literature Review**

This section brings together and critically engages with existing scholarship on how international human rights treaties are ratified and subsequently integrated into domestic legal systems. In doing so, it also identifies important gaps that the present study aims to address. The discussion is anchored in three major theoretical perspectives, namely Rational Choice Theory, Institutional Theory, and Constructivism, each of which offers a distinct but complementary explanation of how and why states engage with international human rights instruments and how those commitments are translated into domestic practice.

From the standpoint of Rational Choice Theory, states are viewed as strategic actors that make decisions based on calculated assessments of potential gains and losses. Within this framework, the decision to ratify a human rights treaty is interpreted as a deliberate choice informed by considerations such as political advantage, economic incentives, and reputational benefits. Governments may perceive treaty participation as a means of strengthening diplomatic relations, attracting development assistance, or enhancing their standing within the international community. At the same time, they weigh these benefits against potential costs, including limitations on sovereignty, financial burdens associated with implementation, and exposure to international scrutiny. As a result, ratification is more likely to occur in situations where anticipated benefits clearly outweigh the perceived risks.

Institutional Theory offers a different but equally important lens by focusing on the influence of norms, rules, and institutional expectations in shaping state behaviour. Rather than

acting solely on calculated interests, states are also guided by shared understandings of what constitutes appropriate conduct within the international system. This perspective emphasises that states often ratify treaties because doing so aligns with widely accepted standards of legitimacy and good governance. The concept commonly described as the logic of appropriateness suggests that states conform to international expectations not only to gain advantages but also to maintain their credibility and legitimacy among peers. In this sense, treaty ratification becomes part of a broader process of normative alignment, where states seek to demonstrate adherence to globally recognised human rights principles.

Constructivist approaches add a further layer of analysis by highlighting the role of ideas, identities, and social interactions in shaping state preferences. According to this perspective, engagement with international human rights regimes is not merely instrumental or rule-driven but is also influenced by processes of socialisation and norm internalisation. Through repeated interaction with other states, international organisations, and transnational actors, governments may gradually adopt and internalise the values embedded in human rights treaties. Ratification, therefore, can reflect a desire to be recognised as a member of a community of states that uphold shared norms, even in situations where immediate compliance remains incomplete. Over time, these interactions can contribute to deeper changes in domestic legal cultures and institutional practices.

Taken together, these theoretical perspectives provide a multi-dimensional framework for understanding treaty engagement. The literature consistently suggests that ratification is more likely where there is a pre-existing alignment between domestic policies and treaty provisions. In such cases, the perceived costs of compliance are relatively low, and the political benefits of

ratification are correspondingly higher. Conversely, where significant legal or ideological discrepancies exist, states may delay ratification or adopt a more cautious approach.

The process leading to ratification is rarely straightforward. It typically involves multiple stages, including negotiations, legal assessments, stakeholder consultations, and formal approval by domestic institutions such as parliaments or executive bodies. These procedures can be time-consuming, particularly in contexts where institutional capacity is limited or where political consensus is difficult to achieve. The absence of strict international deadlines for ratification further contributes to delays, as states retain considerable discretion regarding the timing of their commitments. In politically sensitive contexts, this flexibility may result in prolonged hesitation or selective engagement with treaty obligations.

Another important factor influencing ratification is the possibility for states to enter reservations to specific provisions. This mechanism allows governments to limit the scope of their obligations by excluding or modifying certain treaty clauses that conflict with domestic legal frameworks, cultural practices, or policy priorities. By reducing the perceived rigidity of international commitments, reservations can make treaty participation more politically acceptable. At the same time, however, they may weaken the overall effectiveness of treaties by creating uneven levels of compliance across different states.

The literature also underscores the importance of socialisation processes in shaping state behaviour. During treaty negotiations and subsequent engagement with international institutions, state representatives are exposed to new ideas, norms, and expectations. These interactions can influence national positions by encouraging alignment with international standards. Mechanisms such as peer pressure, diplomatic dialogue, and reputational considerations often play a significant role in this process. Over time, states may come to view participation in human rights regimes not

merely as a strategic choice but as a reflection of responsible governance and international legitimacy.

A second major theme emerging from the literature concerns the necessity of strong domestic legal and institutional frameworks to support treaty ratification and implementation. Ratification is not an isolated executive act; it requires coordinated involvement from a range of national actors, including legislative bodies, executive agencies, legal advisory institutions, and, in some cases, sub-national authorities. Effective domestication depends on the capacity of these institutions to interpret treaty obligations, enact implementing legislation, and oversee compliance.

In the Ugandan context, the Uganda Law Reform Commission plays a particularly significant role in this process. It is responsible for reviewing existing legislation, identifying inconsistencies with international obligations, and recommending legal reforms aimed at ensuring alignment with treaty standards. Although the Commission has contributed meaningfully to the advancement of human rights domestication, existing studies indicate that gaps persist within the national legal framework. Certain laws remain inconsistent with international standards, reflecting ongoing challenges in achieving full and coherent implementation.

A further important strand within the literature concerns the extent to which domestic legal frameworks align with the substantive obligations contained in international human rights treaties. While many states have formally incorporated selected human rights principles into their national legal systems, scholars consistently highlight the persistence of inconsistencies and gaps in alignment. These discrepancies are particularly pronounced in jurisdictions characterised by plural legal systems, where statutory law operates alongside customary or religious norms. In such contexts, the coexistence of multiple legal orders may undermine the uniform application of internationally recognised human rights standards. As noted in existing scholarship, this

fragmentation often results in selective implementation, where certain rights are protected in formal legislation while others remain inadequately addressed in practice.

The Ugandan legal framework provides a useful illustration of these dynamics. Although the country has adopted a range of legislative measures that reflect commitments under instruments such as the International Covenant on Civil and Political Rights, significant areas of divergence remain. In particular, legal provisions relating to minority protection, freedom of expression, and gender equality have been identified as falling short of international benchmarks. These inconsistencies are not merely technical in nature but are closely linked to broader structural and socio-political factors. Domestic policy priorities, institutional conservatism, and resistance rooted in cultural or social norms often shape how international obligations are interpreted and implemented. Consequently, the challenge of harmonising domestic law with international standards extends beyond legislative reform and requires engagement with deeper societal and institutional dynamics.

A fourth key theme emerging from the literature relates to the broader implications of treaty participation for states, particularly with respect to ongoing obligations following ratification. Becoming a party to international human rights instruments entails both procedural and substantive responsibilities. Among the most significant of these is the requirement to submit periodic reports detailing progress made in implementing treaty provisions. These reports are reviewed by international monitoring bodies and serve as platforms for dialogue, evaluation, and the provision of technical guidance. Through this process, states are expected to demonstrate accountability while also identifying areas requiring further reform.

Recent developments in treaty monitoring practice have sought to improve the efficiency and effectiveness of this reporting system. For example, the introduction of simplified reporting

procedures has transformed the way in which states engage with monitoring bodies. Under this approach, states respond to targeted lists of issues prepared in advance, enabling more focused and substantive engagement. This method has reduced administrative burdens and enhanced the quality of information provided, allowing for more meaningful assessment of compliance. Uganda has participated in these evolving processes and has benefited from technical support provided by the Office of the High Commissioner for Human Rights. Such support has contributed to improvements in data collection systems, strengthened coordination among government institutions, and encouraged more structured engagement with civil society actors. As a result, reporting processes have become more comprehensive and reflective of the realities on the ground.

Despite these advancements, the literature reveals several unresolved issues and areas requiring further investigation. One of the most persistent debates concerns the extent to which treaty ratification translates into tangible improvements in human rights protection. While some scholars argue that ratification can act as a catalyst for legal reform and behavioural change, others maintain that, in the absence of effective enforcement mechanisms, its impact may remain largely symbolic. This divergence in findings points to the need for a more nuanced understanding of the conditions under which international commitments lead to meaningful domestic outcomes.

In addition, there remains limited clarity regarding variations in state behaviour with respect to the timing and depth of treaty engagement. Existing studies have not sufficiently explained why some states move rapidly toward ratification and implementation while others proceed more cautiously or selectively. Much of the current literature has focused either on early-stage processes such as negotiation and socialisation or on broader patterns of normative diffusion after ratification. Comparatively less attention has been given to the role of treaty design features,

including the use of reservations, the structure of reporting obligations, and the strength of monitoring mechanisms, in shaping compliance across different contexts.

These gaps highlight the importance of conducting context-sensitive research that takes into account regional specificities and institutional realities. In particular, there is a clear need for more detailed empirical studies focusing on sub-Saharan Africa, where the interaction between international human rights norms and domestic legal systems presents unique challenges and opportunities. By addressing these gaps, the present study seeks to contribute to a more comprehensive understanding of how international human rights treaties are not only adopted but also operationalised within national legal frameworks.

## **CHAPTER 3: RESEARCH METHODOLOGY**

### **3.1 Introduction**

The chapter discusses the research methodology, which includes collecting primary data and reviewing existing literature. It outlines the research tools employed for data collection and explains the research paradigms of interpretivism and constructivism that form the foundation of the study. Additionally, the chapter provides an overview of the population and sampling methods used, along with the implemented ethical considerations. Finally, it concludes by detailing the methods employed for data analysis.

### **3.2 Research Approach and Design**

This section provides an analysis of the approach and design utilised in the research. It begins by discussing the research approach and then proceeds to consider the research design, identifying the most suitable option for this study. The discussion begins with an overview of the research approach, followed by an examination of the design, as outlined below.

#### **3.2.1 Research Approach**

Researchers utilize various approaches based on the criteria they establish to determine the suitability of a particular study. The factors influencing their choice of approach include the nature of the research objectives, the type of data to be collected and analyzed, and how the research findings will be applied. Generally, researchers adopt one of three primary research approaches: quantitative, qualitative, or mixed methods (Saraswati & Deviet, 2023; Enas, Islam & Tahani, 2021). Each of these approaches will be discussed in detail in the following sections, starting with the quantitative approach, followed by the qualitative approach, and concluding with mixed methods.

The quantitative approach relies on numerical values to describe research observations. It uses empirical statements to assign meaning to various cases and employs mathematical and statistical methods for data analysis (Taherdoost, 2022). This approach involves empirical evaluations to predict or determine relationships between variables. For example, it can assess the extent to which a norm or standard has achieved the goals of a specific program or policy, yielding generalizable findings (Rana, Gutierrez, & Oldroyd, 2021).

However, despite its strengths, the quantitative approach has been criticized for prioritizing quantity over quality. It often overlooks the nuanced qualitative aspects of various phenomena, failing to capture the richness of individual emotions, human experiences, and behavioral insights that could shed light on quantifiable constructs and relationships. According to Mohammad et al. (2024), to fully understand certain aspects of phenomena, such as people's attitudes, qualitative methods like in-depth interviews may be more suitable for data collection.

In contrast, the qualitative approach focuses on the quality of observations, their various manifestations, and the context in which research occurs. This approach relies on non-numerical data, such as spoken words and observations, and focuses on understanding emotions, thoughts, and experiences. Its primary goal is to gather narrative data that can lead to testable hypotheses. Researchers often use this approach during the exploratory stages of research to identify patterns and generate new perspectives (Ugwu & Eze, 2023).

Critics of the qualitative approach argue that it occasionally fails to produce the expected outcomes (Coşkun, 2020). They contend that it is heavily influenced by subjective interpretations of human emotions and experiences, which can restrict the generalizability of its findings. Nevertheless, proponents highlight its strength in approaching problems with an open mind and

emphasize its capacity to develop theories directly from data, as seen in grounded theory research (Mwita, 2022).

The mixed methods approach combines both quantitative and qualitative research methods within a single study, enabling researchers to address complex challenges across various fields (Sharma et al., 2023; Taherdoost, 2022; Leavy, 2022). According to Dawadi, Shrestha, and Giri (2021), it is described as "a principled complementary research method" to traditional quantitative and qualitative approaches (p. 25). This approach is important because it overcomes the limitations associated with using a single research method (Sakata, 2022). Furthermore, it provides several advantages by integrating post-positivist and interpretivist paradigms or frameworks (Mwita, 2023). Notably, the mixed methods approach facilitates methodical triangulation, which helps validate the results obtained through various methods (Bans-Akutey & Tiimub, 2021).

### **3.2.2 Research design**

This study adopts a qualitative socio-legal research design to examine the legal and institutional frameworks governing the ratification and domestic incorporation of international human rights treaties in Uganda. A socio-legal research design is appropriate for this study because it allows the researcher to analyse law not only as a system of formal legal rules but also as a social institution that interacts with political processes, governance structures, and institutional practices. Socio-legal research therefore enables a broader understanding of how legal norms operate within society and how they influence decision-making within state institutions (Banakar and Travers, 2013; McConville and Chui, 2017).

Legal research is often categorised into doctrinal and non-doctrinal (empirical) approaches, each serving different but complementary purposes. Doctrinal research focuses on the systematic analysis of legal sources such as constitutions, statutes, case law, and international legal

instruments in order to determine the content and scope of legal rules (Hutchinson, 2018). By contrast, socio-legal or empirical research examines how law operates in practice and how legal norms interact with institutional behaviour and policy implementation. This approach is particularly useful for understanding the relationship between formal legal frameworks and the practical realities of governance and legal enforcement (Banakar and Travers, 2013).

Given the nature of the research problem addressed in this study, a combined doctrinal and socio-legal research design was adopted. The ratification and domestic incorporation of international human rights treaties involve both formal legal processes and institutional decision-making within the state. On the one hand, the process is governed by constitutional provisions, statutory frameworks, and international legal obligations that must be analysed through doctrinal legal methods. On the other hand, the implementation of treaty obligations often depends on the actions and interactions of government institutions such as the executive, the legislature, and the judiciary. Understanding how these actors interpret and operationalise treaty obligations requires empirical investigation of institutional practices.

The doctrinal component of this research involves the analysis of relevant legal instruments and authoritative sources, including the Constitution of Uganda, national legislation, parliamentary records, judicial decisions, and international human rights treaties. Through doctrinal analysis, the study examines how international treaty obligations are reflected within Uganda's domestic legal framework and how the legal system regulates the processes of treaty ratification and incorporation. Doctrinal analysis remains a central methodology in legal scholarship because it enables researchers to interpret legal rules, clarify legal principles, and assess the coherence of legal systems (Hutchinson, 2018).

Complementing this doctrinal analysis, the empirical component of the study employs qualitative methods to explore the institutional dimensions of treaty implementation. Qualitative research methods are particularly suited to studies that seek to understand complex institutional processes and the perspectives of individuals involved in policy and legal decision-making. In this study, qualitative data is obtained through interviews with key informants and through the analysis of policy documents, institutional reports, and other relevant materials. These sources provide insight into how treaty ratification and domestication processes operate in practice and how institutional actors influence the implementation of international human rights obligations.

An important feature of the research design is the use of data triangulation, which involves drawing on multiple sources of evidence to strengthen the credibility and reliability of research findings. By combining doctrinal legal analysis with empirical data obtained from interviews and documentary sources, the study can cross-verify information and develop a more comprehensive understanding of the legal and institutional dynamics shaping treaty domestication in Uganda. Triangulation is widely recognised as an important strategy in qualitative research for enhancing methodological rigour and minimising the risk of bias (Creswell and Poth, 2018).

The research design adopted in this study provides a comprehensive framework for analysing both the normative legal structures and institutional processes associated with treaty ratification and domestication. By integrating doctrinal legal analysis with qualitative socio-legal methods, the study is able to generate a nuanced understanding of how international human rights treaties are incorporated into Uganda's domestic legal system and how institutional practices influence the implementation of these international obligations.

### 3.2.3 Interpretivism

Researchers utilise various paradigms tailored to their specific research objectives and roles within their studies. A research paradigm defines a researcher's worldview, encompassing the values and ideas that shape how they perceive and interact with the phenomenon being studied (Pervin & Mokhtar, 2022). Interpretivism has emerged as an alternative to positivism, offering a distinct perspective on research. According to Fodouop (2024), 'interpretivism is the belief that individuals construct knowledge based on their interpretations and experiences' (p. 2).

Interpretivism, as an epistemological approach, centers on the relationship between the researcher and the research subject. It emphasizes the importance of understanding individuals' meanings, voices, viewpoints, experiences, thoughts, and feelings (Ma Junjie & Ma Yingxin, 2022). This approach emphasises the importance of subjective meanings and perspectives in understanding social phenomena, based on the premise that humans fundamentally differ from physical objects. Unlike inanimate things, humans bring additional layers of understanding regarding meanings, which should therefore influence how they are studied.

Interpretivism acknowledges the variations in cultures, circumstances, and historical contexts that give rise to distinct social realities (Pervin & Mokhtar, 2022; Alharahsheh & Abraham, 2020). Its objective is to generate knowledge by exploring participants' unique opinions, experiences, beliefs, and the meanings associated with those perspectives. This interpretive approach assumes a realist ontology, viewing reality through intersubjectivity to grasp the meanings and social and individual experiences relevant to a study. Furthermore, it maintains that social structures are not naturally formed (Alharahsheh & Pius, 2020).

Another key assumption relates to subjective epistemology, which emphasizes the connection between the researcher and the research participant. This perspective asserts that

human beings cannot be separated from the knowledge they possess (Ma Junjie & Ma Yingxin, 2022). As a result, research participants may provide narrow interpretations, and the information gathered is often less likely to be generalized within the interpretivist paradigm, as the data depends on specific frameworks, viewpoints, and values.

In the context of treaty ratification, respondents were asked about the processes by which treaties are ratified by both the executive and the legislature in Uganda. They were specifically questioned about the reasons and procedures involved in ratifying treaties through these two channels. Participants identified which treaties are ratified by the executive compared to those ratified by the legislature. They were also asked to clarify which treaties require endorsement from both entities and how human rights treaties, such as the ICCPR and ACHPR, differ in their ratification processes from other treaties in Uganda. The responses were highly specific to the country, resulting in limited generalizability, which is consistent with the principles of interpretivism.

The interpretive research paradigm allows researchers to consider various factors, including behavioral aspects grounded in respondents' knowledge. This enhances the authenticity of findings based on interpretivist assumptions and beliefs. The paradigm enables researchers to approach their research from a unique perspective while considering the relevant conditions and participants involved. It encourages a focus on specific issues rather than broad generalizations (Alharahsheh & Abraham, 2020).

Qualitative research aims to gather key, concrete, and documented data by analyzing it through explicit interpretive methods. In this study, participant responses were collected through interviews. This method is particularly useful for exploring specific instances where information is limited, as it facilitates thorough fact-finding. The qualitative approach can generate new

insights and theories (Tenny et al., 2021). It typically examines decisions made within a specific perspective at a given time, without considering external factors that may arise or the broader context necessary for generalizing the findings. Accordingly, this paradigm was used to investigate how the treaty ratification process might involve aligning domestic laws with international human rights obligations outlined in the ICCPR.

However, some scholars criticise the interpretivism paradigm. Since qualitative research inherently involves synthesising people's lived experiences, the methods used to collect this information may introduce subjectivity and potential bias on the researcher's part. Additionally, the way questions are framed, and the conduct of interviews can introduce bias on the part of respondents. While this bias may be viewed as a flaw from a positivist standpoint, it is also an inherent aspect of qualitative research and the interpretive/constructivist approach.

### **3.2.4 Constructivism**

Bibi, Khan, and Shabir (2022) observe that individuals develop their understanding and knowledge of the world through experiences and reflections on those experiences. They argue that knowledge is not gained through traditional teaching methods but rather discovered and constructed through action and experimentation. According to this perspective, reality is shaped by the interaction between human intelligence and human experience. Constructivists view reality as a concept that is entirely subjective, arising from the individual mind. They reject the notion that knowledge can be generated through a single scientific method, believing instead that it is formed subjectively.

Qualitative researchers, who share similar beliefs about the construction of knowledge through subjective inquiries and interpretations, align with constructivist principles that recognize multiple subjective realities influenced by individual experiences. Like qualitative researchers who

use subjective observations, interviews, and document reviews to gather data, constructivists advocate for the explicit construction of knowledge based on sensory experiences. While some constructivists may start their inquiries from different theoretical frameworks, most conduct their studies inductively to generate their own theories. Grix (2018) notes that a major weakness of the constructivist paradigm is its lack of objectivity.

According to Fodouop (2024), constructivism posits that "reality is socially constructed through shared meanings and interpretations." It emphasizes the role of language, culture, and social interactions in shaping individuals' understanding of the world (p. 2). This philosophical perspective asserts that knowledge is created as individuals strive to make sense of their experiences. Constructivism argues that knowledge emerges from a meaning-making process in which learners actively construct their understanding (Allen, 2022).

Constructivism suggests that reality is shaped by individuals through their interactions, interpretations, and experiences. It claims that there is no single objective truth; instead, multiple and subjective realities exist, depending on the context and the perspectives of the participants. Constructivism values the meanings, insights, and understandings that individuals generate within their social and cultural contexts, leading them to interpret their experiences and construct meaning in their minds.

As an aspect of interpretivism, the constructivist philosophical model holds that knowledge is developed through reflection on experiences. It operates on the premise that individuals construct much of their learning through these experiences. For constructivists, meaning is equated with learning, which is the primary way individuals acquire knowledge. Constructivism acknowledges the existence of multiple realities, suggesting that different individuals or groups may have varying versions of truth, shaped by their respective social contexts (2024).

In this study, respondents were selected based on their knowledge and experience of the problem under investigation. For instance, “How have human rights treaties been incorporated into domestic legislation in Uganda?” requires the respondent to have both knowledge and experience in this area. Likewise, understanding the reasons why a state has not ratified a treaty for an extended period necessitates expertise in that specific context.

### **3.2.5 Case Study Research**

This study utilized a case study research design that included a survey strategy. According to Oranga and Matere (2023, p. 5), a case study is defined as "a detailed, in-depth investigation of the development of a single event, individual, or situation over time within a real-world context." Chowdhury (2021) further characterizes a case study as an in-depth examination of contemporary phenomena within their real-life context, particularly when the boundaries between the experience or phenomenon and its circumstances are unclear.

A key feature of this research design is its depth of investigation, prioritising detailed analysis over a broader scope. Investigations are conducted in their natural context, focusing on clearly defined boundaries to ensure that the study remains within specific delimitations. In this type of research, the phenomenon and its framework are intertwined, with the case representing a bounded system outlined (Coombs, 2022; Glette & Wiig, 2022). Furthermore, case studies accommodate the full complexity of a research problem by utilising various sources and types of data. Consequently, many researchers consider the case study a suitable approach, contributing to its widespread use in social research (Glette & Wiig, 2022; Coombs, 2022). The fundamental criterion for this method is the bounded system; any research situation central to this concept qualifies for a case study. In this case, the phenomenon under examination, particularly the practice of treaty ratification, is confined to the context of Uganda.

Based on these concerns, specific questions were formulated to gather information within Uganda. For example, one question asks, "What are the obligations for ratifying human rights treaties in Uganda?" Other questions include, "How is Uganda's treaty ratification practice aligned with the Vienna Convention on the Law of Treaties (VCLT) 1969?" According to Article 14(1) of the VCLT, a state may express consent to be bound by a treaty through ratification under certain conditions: (i) if the treaty provides for it; (ii) if the negotiating states agree; (iii) if the treaty has been signed subject to ratification; or (iv) if a state intends to sign the treaty subject to ratification. Furthermore, Article 19 allows a state to formulate a reservation when signing a treaty, subject to specific conditions or exceptions within the treaty.

Another relevant question is, "What is Uganda's current practice regarding adopting and authenticating treaty texts?" These questions are designed to elicit information about the specific system of treaty ratification practices in Uganda.

Using the design, a researcher conducts an in-depth analysis of a specific case, such as a process, organisation, or country (Adom et al., 2016). This investigation aims to examine the distinctive features of the case. While a case study provides subjective insights rather than objective data, it offers detailed knowledge about the phenomenon being studied and does not allow for generalizations beyond the specific context.

This particular study focuses on investigating treaty ratification practices in Uganda, relying on subjective information collected from participants. Respondents were asked questions such as, "In your opinion, how does the non-ratification of the Convention on the Rights of the Child (CRC) 1989 impact Uganda?" The findings from these questions are context-specific and aim to provide a deeper understanding of the issues related to Uganda.

Case study methods are often criticized for lacking generalizability, which arises from the intensive examination of a single case (Priya, 2020). However, because each case illustrates a specific class of phenomena, an in-depth study can generate significant hypotheses that can later be tested in similar contexts. If these hypotheses prove valid across multiple similar cases, they can contribute to developing theory and generalization.

In conclusion, this empirical study employed a qualitative research design that was well-suited for gathering data on respondents' perceptions and views regarding the phenomenon under investigation. This design effectively addressed the "why" and "how" questions related to the subject matter, allowing for a deeper understanding of the issues (Tenny et al., 2021). The chosen design was appropriate because the study is socio-legal and interdisciplinary, focusing on the analysis of law and its societal applications (Murty, 2018).

### **3.3 Research Tools**

This section summarises the tools employed in qualitative research, outlines the interview guide utilised to gather data for the study, and details the documentary review method used to collect information from secondary sources.

#### **3.3.1 Research tools used in qualitative research**

This study employs a qualitative research design, which requires a clear explanation of how this approach gathers the information needed to fulfil the research objectives and answer the research questions. A key characteristic of qualitative research is its capacity to explore values and individual behaviours, providing context and a detailed understanding of the views and experiences of various stakeholders. The data collection process in qualitative research is

inherently flexible and adaptable, enabling the researcher to investigate phenomena and themes in greater detail as they arise.

Qualitative research typically utilises specific data collection methods, often referred to as research tools or instruments. These encompass documentary review guides, focus group discussion guides, interview protocols, and observation guides. Documentary analysis entails the researcher reviewing written materials, as noted by Busetto et al. (2020). This study includes treaties, scholarly articles, statutes, court cases, reports, and the parliamentary Hansard.

A focus group is a type of group interview designed to explore participants' experiences and expertise. The focus group discussion guide includes questions used to facilitate conversations on a specific topic. The advantage of using such a guide is that it helps steer discussions among participants with relevant knowledge and experience related to the phenomenon being studied. According to Busetto (2020), this method is relatively easy, quick, and cost-effective for gathering information through participant interactions, allowing for the sharing and comparison of insights. However, a potential drawback is that moderating these discussions requires expertise. Additionally, if the subject matter is sensitive, participants may withhold information, making this method less suitable for certain discussions. The interview guide, another essential tool in qualitative studies, will be addressed in the following section.

### **3.3.2 Interview guide**

Qualitative inquiry effectively explores participants' experiences, opinions, and perceptions, allowing researchers to uncover valuable insights. When a researcher aims to understand an individual's subjective views on their life experiences, such as the ratification of

human rights treaties in Uganda, using an interview guide with open-ended questions is an appropriate research tool.

An interview guide contains questions the interviewer plans to address. This guide prompts the moderator with predetermined questions and areas to explore, including follow-up inquiries (Elhami & Khoshnevisan, 2022). It should be clear and straightforward, allowing the interviewer to focus on the participant. Interviews give researchers privileged access to individual experiences (Roberts, 2020). The structure of these interviews is designed to appreciate the subjects fully and describe their involvement in detail.

Open-ended questions in interviews serve to provide an understanding of the respondents' views, revealing their experiences regarding a particular topic. As noted by Natalie and Deanna (2021), an in-depth interview is a qualitative research method that reflects the logic of human interaction. The authors emphasize that in-depth interviews are conversations where individuals engage, interact, and exchange questions and answers. Therefore, the in-depth interview guide includes questions that help researchers elicit detailed responses from participants in studies that conform to a qualitative research design.

Considering the focus of this research on participants' experiences and perspectives concerning the ratification and domestication of human rights treaties in Uganda, an interview guide was deemed appropriate. As a result, the researcher created an interview guide to gather field data, which is presented in Appendix I.

### **3.4 Population and Sample of the Research Study**

Clearly defining the population and sampling strategy is essential in qualitative research because it determines the credibility and relevance of the findings (Creswell and Poth, 2018). In

research methodology, the population refers to the broader group of individuals or entities from which the study participants are drawn. However, qualitative studies do not aim to represent an entire population statistically; instead, they focus on selecting participants who possess relevant knowledge or experience regarding the phenomenon under investigation (Hennink, Hutter and Bailey, 2020).

In this study, the general population includes individuals and institutions involved in, or affected by, the ratification and domestic incorporation of international human rights treaties in Uganda. These include government officials responsible for treaty negotiation and ratification, legal practitioners, academics, and representatives of civil society organisations engaged in human rights advocacy. However, because qualitative research focuses on obtaining in-depth insights from knowledgeable participants, the study refined this broader population into a target population consisting of individuals directly involved in legal, institutional, or policy processes relating to treaty ratification and implementation.

The target population therefore included officials working in key institutions involved in the ratification and domestication of international human rights treaties in Uganda. These institutions include the Office of the Attorney General, the Ministry of Foreign Affairs, Parliament, academic institutions conducting legal research, and civil society organisations engaged in human rights advocacy. Individuals within these institutions possess specialised knowledge regarding the legal and institutional processes governing treaty adoption and implementation.

From this target population, an accessible population was identified consisting of individuals who were available and willing to participate in the study. These individuals formed the sampling frame, defined as the list of potential participants possessing the relevant characteristics required for the study (Hennink, Hutter and Bailey, 2020). The sampling frame

included professionals who were directly involved in treaty-related processes or who possessed expertise in international human rights law and policy.

Participants were selected using purposive sampling, a non-probability sampling technique commonly used in qualitative research to identify individuals who possess specific knowledge relevant to the research questions (Patton, 2015). Purposive sampling allows researchers to select information-rich cases that can provide detailed insights into the phenomenon under investigation. In this study, participants were intentionally selected because of their professional roles and experience in treaty ratification, legal advisory processes, legislative review, or human rights advocacy.

The study included participants from several institutions involved in treaty ratification and human rights implementation in Uganda. These institutions included the Office of the Attorney General, the Ministry of Foreign Affairs, Parliament of Uganda, Makerere University School of Law, private legal practitioners specialising in international law, the Ministry responsible for gender and social development, and civil society organisations engaged in human rights advocacy. Individuals from these institutions were considered suitable participants because they possess practical knowledge of the legal and institutional processes associated with treaty ratification and domestication.

The final sample consisted of nineteen participants, whose institutional affiliations and roles are summarised in Table 3.1.

**Table 1: *Characteristics of Interview Participants***

<b>Participant Code</b>	<b>Institution</b>	<b>Position/Role</b>	<b>Years of Experience</b>
P1	Attorney General's Chambers	Legal Officer	12
P2	Attorney General's Chambers	State Attorney	9
P3	Ministry of Foreign Affairs	Diplomat/Legal Officer	11
P4	Ministry of Foreign Affairs	Treaty Officer	8

P5	Makerere University School of Law	Academic/Researcher	15
P6	Makerere University School of Law	Lecturer in Law	10
P7	Private Legal Practice	Advocate (International Law)	14
P8	Private Legal Practice	Advocate (Human Rights Law)	9
P9	Ministry of Gender, Labour and Social Development	Policy Officer	10
P10	Ministry of Gender, Labour and Social Development	Programme Officer	7
P11	Parliamentary Committee on Foreign Affairs	Committee Member	12
P12	Parliament of Uganda	Legal Advisor	11
P13	Civil Society Organisation	Executive Director	13
P14	Civil Society Organisation	Programme Manager	9
P15	Civil Society Organisation	Human Rights Officer	8
P16	Civil Society Organisation	Legal Researcher	7
P17	Civil Society Organisation	Policy Analyst	10
P18	Government Legal Department	Senior Legal Officer	14
P19	Human Rights Organisation	Programme Coordinator	8

The sample size was intentionally kept relatively small because qualitative research prioritises depth of understanding rather than statistical representation (Creswell and Poth, 2018). Participants were selected based on their expertise and ability to provide detailed insights into the institutional processes associated with treaty ratification and domestication.

Data collection continued until data saturation was achieved. Data saturation occurs when additional interviews no longer produce new themes or insights relevant to the research questions (Hennink and Kaiser, 2022). Initially, the researcher anticipated that approximately eighteen participants would be required to reach saturation. However, after conducting nineteen interviews, it became evident that participants were providing similar responses and no substantially new information was emerging. At this point, the researcher concluded that sufficient data had been collected to address the research objectives.

In addition to purposive sampling, theoretical sampling was applied during the later stages of data collection. Theoretical sampling involves selecting additional participants based on emerging themes identified during the preliminary analysis of interview data (Charmaz, 2014). This approach allowed the researcher to seek clarification or further insights regarding specific institutional processes associated with treaty ratification and domestication.

To guide participant selection, inclusion and exclusion criteria were established. The inclusion criteria focused on individuals with professional experience in treaty ratification, international human rights law, legislative processes, or human rights advocacy. These included government officials, legal practitioners, academics, and representatives of civil society organisations. The exclusion criteria eliminated individuals who lacked relevant expertise or whose professional roles were unrelated to the ratification or domestication of human rights treaties. In addition, the study focused on developments occurring between 1962 and 2023, reflecting the period relevant to Uganda's engagement with international human rights treaties.

Recruitment of participants began by contacting relevant institutions to request permission for staff members to participate in the study. The researcher presented a letter of introduction issued by the UNICAF Research Ethics Committee to institutional heads, explaining the purpose of the study and requesting access to potential participants. Once institutional approval was granted, individuals meeting the inclusion criteria were approached and provided with detailed information about the study. Participants who agreed to take part signed informed consent forms before the interviews were conducted.

The sampling strategy adopted in this study ensured that participants possessed relevant expertise and experience related to the research topic. In purposively selecting knowledgeable individuals from institutions directly involved in treaty processes, the study was able to obtain rich

and detailed insights into the legal and institutional factors influencing the ratification and domestic incorporation of international human rights treaties in Uganda.

### **3.5 Materials/ Instrumentation of Research Tools**

This study employed a qualitative research approach, using an interview guide to collect primary qualitative data. After thoroughly searching peer-reviewed articles and resources from UNICAF, the researcher found no suitable, validated research instruments that could be adapted for this study. This necessitated the creation of a new interview guide, which the researcher developed to align with the specific research question.

To enhance the validity of this guide, it was pre-tested with three advocates in Kampala. Pre-testing involves administering the data collection tool to a small group of potential respondents before conducting full-scale data collection in the field. If any issues arise during the pre-test, it is likely that similar problems will occur during the data collection phase (Taherdoost, 2021). The purpose of the pre-test was to confirm that participants understood the prompting questions and that the guide elicited the necessary information.

Additionally, it sought feedback from his supervisor after he had reviewed the instrument. Following incorporating the supervisor's comments and the suggested changes, the instrument was submitted to the UNICAF Research Ethics Committee (UREC) for approval. The committee approved the instrument on 22 September 2023, allowing it to be used for collecting field data. Once this approval was received, the tool was administered to participants through face-to-face interviews.

### **3.6 Study Procedures and Ethical Assurances**

Ethical considerations are fundamental to responsible research practice, particularly in studies involving human participants. Research ethics focuses on ensuring that the rights, dignity, and well-being of research participants are respected throughout the research process (Bos, 2020). Ethical research therefore requires researchers to adhere to established principles such as informed consent, confidentiality, voluntary participation, and the minimisation of harm. These principles ensure that participants are treated with respect and that the information they provide is handled responsibly (Mirza, Bellalem and Mirza, 2023).

Prior to data collection, ethical approval for the study was obtained from the University Research Ethics Committee (UREC). The researcher submitted the research proposal, data collection instruments, and participant consent forms for review. Approval from the ethics committee confirmed that the study complied with the ethical standards required for research involving human participants. In addition, approval was obtained from the Mildmay Uganda Research and Ethics Committee (MUREC) in order to ensure compliance with national ethical guidelines governing research conducted in Uganda.

Following the approval process, the researcher began contacting the institutions whose staff were identified as potential participants. Formal permission was sought from institutional heads to allow their staff members to participate in the study. The researcher presented an official letter of introduction from the university explaining the purpose of the study and requesting access to potential participants. Once permission was granted, individuals who met the inclusion criteria were invited to participate in the interviews.

Participation in the study was voluntary, and informed consent was obtained from all participants prior to the interviews. Each participant received an explanation of the purpose of the

study, the nature of the data to be collected, and their rights as research participants. Participants were informed that they were free to decline participation or withdraw from the study at any stage without any negative consequences. Those who agreed to participate signed an informed consent form before the interview process began.

Confidentiality was a key ethical consideration throughout the research process. Confidentiality requires researchers to protect the personal information of participants and to ensure that data obtained during the study are handled responsibly and securely (Arafat, 2024). To safeguard confidentiality, interviews were conducted in private settings where participants could speak freely without the risk of being overheard. The researcher also ensured that interview recordings, transcripts, and related materials were stored securely and were accessible only to the researcher.

Closely related to confidentiality is the principle of anonymity, which involves ensuring that the identities of participants cannot be linked to the information they provide (Eungoo and Hee-Joong, 2023). In this study, anonymity was maintained by assigning numerical codes to participants instead of using their names or personal identifiers. These codes were used throughout the data analysis and reporting process. As a result, individual participants cannot be identified in the final thesis or any publications arising from the study.

The study posed minimal risk to participants because the research focused on professional experiences and institutional processes related to treaty ratification and domestication. The study did not involve sensitive personal information or issues that could expose participants to harm. Furthermore, the research was conducted in compliance with Article 41 of the Constitution of Uganda (1995), which recognises the right of access to information held by public bodies, except

in circumstances where disclosure may threaten national security or sovereignty. The information collected in this study did not fall within those restricted categories.

Data collection was conducted through face-to-face semi-structured interviews using an interview guide developed by the researcher. The guide contained open-ended questions designed to elicit detailed insights into the institutional and legal processes associated with the ratification and domestication of international human rights treaties in Uganda. The use of semi-structured interviews allowed participants to elaborate on their experiences and provided opportunities for the researcher to explore emerging issues in greater depth.

Participants were purposively selected because of their professional roles and expertise in areas related to treaty ratification, international human rights law, and institutional governance. Interviews were conducted with individuals from institutions directly involved in treaty processes, including the Attorney General's Chambers, the Ministry of Foreign Affairs, Parliament of Uganda, Makerere University School of Law, private legal practitioners, and civil society organisations engaged in human rights advocacy. These participants were considered well placed to provide informed perspectives on the legal and institutional dynamics shaping the ratification and domestication of human rights treaties in Uganda.

The interview questions served as a guide for the discussions while allowing flexibility for participants to introduce new perspectives relevant to the study. This flexible approach is consistent with qualitative research practices, where interviews are used not only to collect predetermined information but also to explore emerging themes and insights that may contribute to a deeper understanding of the research topic (Creswell and Poth, 2018).

### **3.7 Data Collection and Analysis**

This study employed qualitative methods to collect and analyse data in order to understand the legal and institutional processes governing the ratification and domestic incorporation of international human rights treaties in Uganda. Data were gathered through key informant interviews and documentary analysis, enabling the researcher to explore both the institutional perspectives of actors involved in treaty processes and the legal frameworks regulating treaty ratification and implementation.

The qualitative data collected from participants were organised around the study's research questions. Research Question 1 examined how Uganda's legal and institutional frameworks shape the ratification and implementation of international human rights treaties. In addressing this question, participants were asked to explain the factors influencing Uganda's decisions to ratify international human rights instruments, the institutional processes involved in ratification, and the challenges encountered in implementing treaty obligations within the domestic legal system.

Research Question 2 focused on the effectiveness of Uganda's institutional framework in ratifying and integrating international human rights treaties into the national legal system. Participants were therefore asked to reflect on the roles played by different government institutions, including the executive, the legislature, and the judiciary, in facilitating or constraining treaty domestication. The aim was to determine whether the existing institutional arrangements adequately support the protection and promotion of human rights within Uganda.

Research Question 3 explored the extent to which Uganda's domestic legal framework is consistent with the provisions of international human rights treaties. In this regard, the data collected examined the alignment between Ugandan legislation and international human rights

standards, as well as the existence of any legal gaps that may affect the effective implementation of treaty obligations.

Finally, Research Question 4 investigated the implications of ratifying international human rights treaties for the development of human rights law in Uganda. Participants were asked to discuss whether treaty ratification has strengthened human rights protection within the country and to reflect on the potential consequences of failing to ratify or domesticate certain human rights instruments.

Primary data were collected through semi-structured interviews conducted with selected key informants who possess knowledge or experience relating to treaty ratification and human rights implementation in Uganda. An interview guide developed by the researcher was used to ensure that discussions remained focused on the research objectives while allowing flexibility for participants to provide detailed responses. Prior to conducting the interviews, the researcher contacted the relevant institutions to request permission for staff members to participate in the study. Institutional heads were informed about the purpose of the research and were asked to identify appropriate staff members who were directly involved in legal, policy, or administrative processes related to treaty ratification and implementation.

Before the interviews commenced, participants were provided with information about the study and were asked to give informed consent to participate. Each participant signed a consent form outlining the nature of the research, the voluntary nature of participation, and the measures taken to ensure confidentiality. Participants were also informed that they could withdraw from the study at any stage without any consequences. All interviews were conducted face-to-face and were audio recorded with the participants' permission in order to ensure accuracy during transcription and analysis.

Following the interviews, the recordings were transcribed verbatim to facilitate systematic analysis of the data. The qualitative data were analysed using grounded theory techniques, which allow themes and analytical categories to emerge inductively from the data rather than being imposed in advance (Charmaz, 2014). Grounded theory is particularly useful for analysing complex institutional processes because it enables the researcher to identify patterns, relationships, and explanatory concepts grounded in the perspectives of research participants.

The analysis followed three stages of grounded theory coding: open coding, axial coding, and selective coding (Strauss and Corbin, 1998). During the initial stage of open coding, the interview transcripts and documentary materials were examined line by line in order to identify key concepts and recurring ideas relevant to the research questions. These concepts were then grouped into broader analytical categories representing themes emerging from the data.

The second stage involved axial coding, during which relationships between categories were examined in order to understand how different factors influenced treaty ratification and domestication processes. At this stage, the researcher analysed how themes relating to institutional coordination, legislative procedures, policy priorities, and legal constraints interacted within the broader treaty implementation framework.

The final stage involved selective coding, which focused on integrating the identified categories into broader thematic explanations that addressed the central research questions. Through this process, the researcher identified the core themes explaining how Uganda's legal and institutional frameworks shape the ratification and domestic incorporation of international human rights treaties.

To enhance the reliability and credibility of the analysis, the study employed data triangulation by combining interview data with documentary sources. In addition to the interviews,

an extensive doctrinal and documentary review was conducted in order to examine the legal framework governing treaty ratification and domestication in Uganda. This review included national legal instruments such as the Constitution of the Republic of Uganda (1995), the Judicature Act (Cap. 13), the Ratification of Treaties Act (1998), the Employment Act (2006), and other relevant legislation regulating labour rights, social protection, and institutional governance.

The study also examined international human rights treaties ratified by Uganda, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In addition, reports from institutions such as the UHRC, United Nations treaty bodies, and relevant academic literature on treaty domestication and compliance in Africa were reviewed in order to contextualise the empirical findings.

Qualitative data analysis was supported by NVivo software, which facilitated the systematic organisation and management of the interview transcripts and documentary sources. All transcripts and relevant documents were imported into NVivo, where they were coded according to the themes emerging from the grounded theory analysis. The software enabled efficient retrieval of coded data and supported the identification of relationships between categories across different sources of evidence (Creswell and Poth, 2018).

By integrating interview data with documentary and doctrinal analysis, the study developed a comprehensive understanding of the legal and institutional factors shaping the ratification and domestic incorporation of international human rights treaties in Uganda. This analytical approach ensured that the findings were grounded both in empirical evidence obtained from participants and in the legal framework governing treaty domestication.

### **3.8 Trustworthiness of Data**

Effectively reporting data is a crucial aspect of research. Researchers must demonstrate how they have ensured the trustworthiness of their data, focusing on four key components: credibility, transferability, dependability, and confirmability.

#### ***Credibility***

To enhance credibility, researchers often spend substantial time in the field, continually observing participants and employing triangulation (Sirwan, 2024). This extended engagement enables researchers to interact meaningfully with participants and thoroughly examine their activities, yielding comprehensive insights. Maintaining an open-minded attitude, acknowledging personal biases, and engaging in self-reflection throughout the study are essential for persistent observation.

Triangulation involves integrating multiple data sources or approaches to validate research findings and enhance credibility (Riazi, Rezvani, & Ghanbar, 2023). In this case, the researcher dedicated many hours interacting with participants about the topic. By collecting both primary and secondary data, the researcher triangulated information from various sources, thereby increasing its credibility.

#### ***Transferability***

Transferability refers to how research findings can be applied to various contexts or situations (Riazi, Rezvani, & Ghanbar, 2023). Qualitative researchers strive to offer comprehensive and nuanced descriptions of the study's setting, including the participants and their process, thereby enhancing transferability (Haq et al., 2023). This study included demographic

information about the participants and a description of the research context to help readers assess whether the findings might be relevant to their own situations. Scholars have emphasised the importance of providing "thick descriptions" to achieve transferability (Younas et al., 2023).

Thick description comprehensively accounts for participants' opinions, intentions, circumstances, motives, meanings, and understandings (Sirwan, 2024). Since individuals interact with one another, thick descriptions should effectively capture the context of observations, incorporating psychological, institutional, sociological, and anthropological dimensions of the phenomenon being studied. By providing detailed (rich) descriptions, researchers can make informed assessments about the relevance of the study's contexts and environments and how they may compare to others.

This researcher described the procedures followed in the study and the research setting, including the participants and their demographics. The researcher also explained how data were obtained, including the procedure for obtaining them.

### ***Dependability***

Dependability centres on employing various related methods and clearly outlining the methodology to ensure the research can be replicated. It also instils confidence in readers that all interpretations of results and recommendations are based on the data provided by participants (Eryilmaz, 2022; Amin et al., 2020). Consequently, this research documents seven key phases: ethical approvals, data collection techniques, research methodology, data analysis, research limitations, research context, and timelines. This comprehensive outline allows readers to evaluate the dependability of the research findings.

To validate interpretations and minimise biases, the researcher sought feedback from experienced scholars, incorporating diverse perspectives to enhance objectivity and confirm accuracy, as suggested by Ahmed (2024) and Rose and Johnson (2020). Involving participants in the validation process ensured that their perspectives and experiences were accurately represented, thereby strengthening the confirmability of the findings.

### ***Confirmability***

Confirmability involves examining the validity of data interpretations by engaging participants in validating the information they have provided and tracking the evolving thoughts, biases, and reflections throughout the research process (Sirwan, 2024).

To achieve the above, the researcher maintained a journal documenting the evolution of thoughts, partiality, and contemplations throughout the research. This reflective practice increased openness and exposed the researcher's subjectivity, contributing to the enhancement of the confirmability of the findings. Acknowledging the researcher's beliefs and assumptions, maintaining an audit trail, and recognising methodological limitations and their potential effects are all critical aspects of confirming the study's findings. Member checking, which involves participant feedback on data accuracy and expert involvement to validate interpretations, enhances the confirmability of research (Sirwan, 2024).

### **3.9 Study Limitations**

Every research study is subject to certain methodological limitations. Acknowledging these limitations is important because it helps to contextualise the findings and demonstrates transparency in the research process (Creswell and Poth, 2018). One limitation of this study relates to the qualitative nature of the research design, which relied on interviews with a relatively small

number of participants. While the purposive sampling strategy enabled the selection of individuals with specialised knowledge of treaty ratification and domestication processes in Uganda, the findings may not represent the perspectives of all stakeholders involved in human rights governance.

A second limitation concerns access to participants within government institutions. Some officials involved in treaty processes were unavailable or constrained by institutional responsibilities, which limited the number of interviews that could be conducted. Nevertheless, the participants included in the study were selected because of their expertise and direct involvement in treaty-related processes, ensuring that the data obtained remained highly relevant to the research objectives.

Another limitation relates to the availability of documentary sources concerning certain institutional practices associated with treaty domestication. Some governmental processes are not always fully documented in publicly accessible records. To address this limitation, the study complemented documentary analysis with interview data obtained from individuals directly involved in treaty processes.

Despite these limitations, several measures were taken to enhance the credibility and reliability of the findings. These included the use of purposive sampling to identify knowledgeable participants, triangulation of interview data with documentary sources, and systematic qualitative analysis using grounded theory techniques. These strategies helped ensure that the findings provide a credible and meaningful understanding of the legal and institutional dynamics shaping the ratification and domestic incorporation of international human rights treaties in Uganda.

## CHAPTER 4: FINDINGS

### 4.1 Introduction

This chapter presents and analyses the findings of the study on the ratification and domestic incorporation of international human rights treaties in Uganda. The findings are derived from qualitative data collected through key informant interviews and documentary analysis, as described in the methodology outlined in Chapter Three. The purpose of this chapter is to present the empirical evidence gathered during the study and to organise it in a systematic manner to address the research questions guiding the research.

The findings are based on qualitative interviews conducted with nineteen participants drawn from key institutions involved in the ratification and implementation of international human rights treaties in Uganda. These participants represented a range of institutions, including the Attorney General's Chambers, the Ministry of Foreign Affairs, Parliament of Uganda, Makerere University School of Law, private legal practitioners, and civil society organisations engaged in human rights advocacy. Their professional roles and experiences provided valuable insights into the legal and institutional processes governing treaty ratification and domestication within the Ugandan legal system.

The analysis presented in this chapter draws on the grounded theory approach employed in the study. As explained in Chapter Three, interview transcripts and documentary materials were analysed using a coding process that involved open coding, axial coding, and selective coding. Through this iterative process, the researcher identified recurring concepts, patterns, and relationships within the data. The coding process facilitated the emergence of several key themes relating to the legal framework governing treaty ratification, institutional processes of domestication, challenges affecting treaty implementation, and the broader implications of treaty ratification for human rights protection in Uganda.

The findings are organised according to the research questions guiding the study. The first section examines the legal and institutional frameworks governing the ratification and implementation of international human rights treaties in Uganda. This section explores how constitutional provisions, statutory laws, and institutional arrangements influence the country's engagement with international human rights instruments. The second section focuses on the effectiveness of institutional mechanisms responsible for treaty ratification and domestication, including the roles played by the executive, legislature, and other relevant institutions.

The third section analyses the extent to which Uganda's domestic legal framework aligns with international human rights treaty obligations. This section evaluates the consistency between domestic legislation and the provisions of major international human rights instruments ratified by Uganda and identifies areas where legal or institutional gaps may exist. The fourth section examines the implications of treaty ratification for the protection and promotion of human rights in Uganda, with particular attention to how treaty commitments influence legislative development, institutional practices, and human rights governance.

Throughout the chapter, the findings are supported by evidence obtained from interviews with key informants and from documentary sources such as legal instruments, institutional reports, and policy documents. Where appropriate, interview findings are complemented by documentary evidence, allowing the study to triangulate data from multiple sources and enhance the credibility of the analysis.

This chapter provides a detailed account of the legal and institutional dynamics shaping the ratification and domestic incorporation of international human rights treaties in Uganda. The findings presented here provide the basis for the discussion in Chapter Five, where the results are interpreted in relation to existing literature and theoretical perspectives on treaty domestication

and human rights governance.

#### **4.2 Profile of Participants**

This study involved nineteen key informant interviews with individuals drawn from institutions directly involved in the ratification and implementation of international human rights treaties in Uganda. The participants represented a range of institutions whose roles are closely linked to treaty negotiation, legal review, legislative oversight, and human rights advocacy. Their professional experience provided valuable insights into the institutional processes and legal frameworks governing treaty ratification and domestication within the Ugandan legal system.

The participants included officials from the Attorney General's Chambers, who are responsible for providing legal advice to the government on international agreements and for supporting the preparation of legislation required for treaty domestication. Participants were also drawn from the Ministry of Foreign Affairs, which plays a central role in treaty negotiations, diplomatic engagement, and the formal signing of international agreements on behalf of the Government of Uganda.

In addition, the study included participants from Parliament of Uganda, including members of the Parliamentary Committee on Foreign Affairs and legal advisers within Parliament. These participants provided insights into the legislative processes involved in reviewing and approving international treaties before they are ratified or domesticated.

Academic perspectives were obtained from participants affiliated with the Makerere University School of Law, whose research and teaching focus on constitutional law, international law, and human rights law. The study also included private legal practitioners specialising in international and human rights law, who contributed practical perspectives on how treaty obligations interact with domestic legal practice and judicial interpretation.

Participants from the Ministry responsible for gender, labour and social development provided insights into the implementation of treaties addressing the rights of vulnerable groups, including women and children. In addition, several participants were drawn from civil society organisations engaged in human rights advocacy and policy engagement, which often play an important role in monitoring treaty implementation, conducting research, and advocating for legislative reforms to strengthen human rights protections.

To protect confidentiality, all participants are identified using numerical codes (for example, P1, P2, P3) rather than their names or specific professional titles. This approach ensures that participants cannot be personally identified while allowing their contributions to be referenced throughout the analysis presented in this chapter.

The diversity of institutional perspectives represented among the participants strengthened the study by providing a broad understanding of the legal, institutional, and policy factors influencing the ratification and domestic incorporation of international human rights treaties in Uganda. The following sections present the key findings that emerged from the analysis of the interview data and documentary sources.

#### **4.3 Legal Framework Governing Treaty Ratification in Uganda**

The findings of this study indicate that the ratification of international human rights treaties in Uganda is governed by a structured legal framework consisting primarily of constitutional provisions and statutory legislation. Participants consistently emphasised that these legal instruments provide formal authority for treaty engagement and define the procedures through which international agreements may be ratified within the domestic legal system. The legal framework therefore operates as the foundational structure within which Uganda participates in the international legal order while maintaining coherence with its domestic constitutional system.

At the apex of this framework is the Constitution of the Republic of Uganda (1995), which provides the overarching legal basis for the conduct of foreign relations and the adoption of international obligations. The Constitution establishes the institutional authority of the executive in matters relating to international relations while also recognising the legislative role of Parliament in overseeing state decisions with legal implications. Participants emphasised that the constitutional framework provides the primary legal environment within which treaty ratification takes place. In this regard, the Constitution not only establishes the powers of different branches of government but also ensures that international commitments remain consistent with the domestic legal order.

Participants P1, P2 and P19 emphasised that the Constitution plays a central role in shaping how Uganda engages with international treaty obligations. According to participant P1: “The Constitution provides the legal framework within which all government actions must operate. Even when Uganda enters into international agreements, those agreements must be consistent with constitutional provisions.”

Similarly, participant P2 explained that the constitutional framework ensures that international commitments do not exist independently of domestic legal structures. As this participant noted: “International treaties are negotiated at the international level, but once they are brought into the country, their implementation must be aligned with the Constitution and the broader legal system.”

Participant P19 further emphasised that the constitutional structure ensures that international engagement does not undermine the integrity of national governance systems. According to this participant: “The Constitution ensures that Uganda does not enter into international commitments that conflict with the fundamental principles of its legal system.”

These responses suggest that the Constitution functions not only as a source of authority for treaty engagement but also as a legal safeguard, ensuring that treaty obligations are adopted in a manner consistent with the principles of constitutional governance. In this respect, the Constitution establishes the normative boundaries within which international legal commitments must operate.

Beyond the Constitution, participants identified the Ratification of Treaties Act (1998) as the principal statutory instrument regulating the ratification process in Uganda. The enactment of this legislation represented an important step toward formalising treaty governance within the country. Prior to the introduction of this statute, the procedures governing treaty ratification were less clearly defined and were largely handled within the executive branch. The Ratification of Treaties Act introduced a structured legal process that clarified how treaties signed by the executive could be formally ratified.

Participants P3 and P11 emphasised that the enactment of this legislation strengthened transparency and accountability in Uganda's treaty ratification process. Participant P3 explained: "The Ratification of Treaties Act introduced a formal legal procedure for ratifying treaties. It clarified the role of different government institutions and ensured that certain agreements must go through parliamentary scrutiny."

Participant P11 similarly highlighted the importance of legislative oversight in the ratification process, explaining that: "The purpose of the Act was to ensure that important international commitments do not bypass legislative review. Parliament must be involved where treaties have implications for national law or policy."

The findings therefore indicate that the Ratification of Treaties Act performs a significant function in establishing procedural safeguards within the treaty ratification process. By specifying

circumstances under which parliamentary approval is required, the legislation introduces an additional layer of institutional accountability and ensures that international commitments with significant legal or policy implications are subjected to legislative scrutiny.

Participants also noted that the Act provides an important legal distinction between treaties that may be ratified by Cabinet and those that require parliamentary approval. According to participants, this distinction reflects an effort to balance the executive's authority in conducting foreign affairs with the legislature's responsibility to safeguard national legal and policy interests. This balance illustrates the broader constitutional principle of checks and balances within Uganda's governance system.

Another important legal dimension identified by participants concerns the relationship between international law and domestic law within Uganda's legal system. Participants explained that Uganda operates largely within a dualist legal framework, under which international treaties do not automatically become part of domestic law upon ratification. Instead, treaty provisions often require additional legislative or administrative measures before they can be implemented within the national legal system.

Participants P1 and P18 emphasised that this legal principle has important implications for the implementation of international human rights treaties. Participant P18 explained: "Ratification at the international level does not automatically make a treaty enforceable within domestic courts. In many cases, Parliament must pass legislation to give effect to those obligations."

Participant P1 further noted that this legal arrangement reflects an attempt to preserve coherence within the domestic legal system. According to this participant: "The legal system requires that international obligations are harmonised with existing national laws. Without that process, implementation could create legal inconsistencies."

These responses highlight the fact that ratification alone does not necessarily guarantee the domestic enforceability of treaty obligations. Instead, ratification often represents only the initial stage in a broader process through which international commitments must be translated into domestic legal norms. This dualist structure underscores the importance of legislative processes in ensuring that treaty obligations are effectively incorporated into national law.

Participants also reflected on how Uganda's engagement with international human rights treaties has evolved over time. Participant P5, an academic specialising in international law, explained that: "Over the years, Uganda has ratified a wide range of international human rights treaties. This has required the development of legal structures to manage those commitments within the domestic legal order."

This observation reflects the broader historical context within which Uganda has increasingly participated in international human rights regimes. As the country has ratified a growing number of treaties, the need for a clear legal framework governing treaty ratification has become increasingly important.

From an analytical perspective, the findings suggest that Uganda possesses a relatively well-developed legal architecture for treaty ratification. Constitutional provisions establish the authority for international engagement, while statutory legislation provides structured procedures through which international agreements may be formally approved. The dualist character of Uganda's legal system further ensures that international commitments must be reconciled with domestic legislation before they can be implemented within the national legal order.

However, the findings also suggest that the existence of a formal legal framework does not automatically guarantee the effective translation of international obligations into domestic law. While constitutional and statutory provisions provide the legal foundation for treaty ratification,

the practical implementation of these commitments often depends on additional legal and institutional processes. Understanding how treaty obligations move from formal ratification to practical implementation therefore requires examining the institutional mechanisms through which these legal frameworks are operationalised.

The following section therefore examines the institutional processes involved in the domestication of international human rights treaties in Uganda, focusing on how different state institutions interact to translate international commitments into domestic legal and policy frameworks.

#### **4.4 Institutional Processes of Treaty Domestication in Uganda**

While the previous section examined the legal framework governing treaty ratification in Uganda, the findings of this study indicate that the domestication of international human rights treaties is primarily an institutional process involving multiple state actors performing distinct but interconnected roles. Participants consistently explained that once Uganda ratifies an international treaty, several institutions must interact in order to translate the treaty obligations into domestic legislation, policy frameworks, and administrative practice. Domestication therefore involves a series of procedural stages through which international commitments are transformed into operational elements of the national legal system.

The first stage of the domestication process typically begins with the formal recognition of treaty obligations within the executive branch of government. Participants explained that after ratification, relevant government institutions must determine how the provisions of the treaty relate to Uganda's existing legal and policy framework. Participant P3 explained that: "After ratification, the government must examine the obligations contained in the treaty and determine how they fit within the current legal and policy structures of the country."

According to the participants, this stage is important because treaties often contain broad normative commitments that must be interpreted within the context of domestic governance structures. In practice, this requires a detailed assessment of the treaty's legal implications and its potential impact on existing national legislation.

Participants indicated that the Attorney General's Chambers play a central role during this stage of the process. As the principal legal adviser to the government, the Attorney General's office is responsible for examining treaty provisions in order to determine whether they are compatible with Uganda's constitutional and statutory framework. Participant P1 explained that: "The Attorney General's office examines the treaty provisions and determines whether the obligations can be implemented within the current legal framework or whether additional legislation is required."

Participant P18 further elaborated that this legal review involves analysing both the substantive obligations contained in the treaty and the legal mechanisms required for implementation. According to this participant: "Sometimes the treaty obligations can be implemented through existing laws, but in many cases the legal review identifies areas where new legislation or amendments may be necessary."

This stage of legal analysis is therefore critical in determining the pathway through which treaty obligations will enter the domestic legal system. By identifying areas where domestic law must be adjusted, the Attorney General's office effectively initiates the legislative dimension of the domestication process.

Following this legal review, participants explained that the domestication process moves into a stage involving policy and sectoral assessment by relevant government ministries. International human rights treaties often address specific areas of governance such as labour rights,

social protection, gender equality, or children's welfare. As a result, the ministries responsible for these policy areas must evaluate how treaty commitments relate to their existing mandates and programmes.

Participant P9 explained that: "When a treaty deals with a specific sector, the ministry responsible for that sector has to examine how the treaty obligations affect its policies and administrative frameworks."

Participant P10 further noted that this process frequently involves consultations between technical experts, policy advisers, and legal officers within the ministry. According to this participant: "The ministry will review the treaty provisions and consider how they can be integrated into existing policies or development strategies."

Through this stage of policy assessment, treaty obligations begin to be translated into concrete policy objectives and administrative frameworks. The findings suggest that this stage is essential because it ensures that treaty commitments are aligned with national development priorities and institutional mandates.

The next stage of the domestication process typically involves the development of legislative proposals where necessary. Participants explained that where the legal review identifies gaps between treaty obligations and existing domestic legislation, new laws or amendments must be drafted to give effect to those obligations. Participant P18 explained that: "If the legal review shows that existing laws do not adequately reflect the treaty provisions, then the government begins the process of drafting legislation to implement those obligations."

According to participants, this stage requires close collaboration between legal experts within the Attorney General's Chambers and policy officials within the relevant ministries.

Through this collaboration, draft legislation is prepared to translate treaty provisions into specific legal rules that can be applied within the domestic legal system.

Once draft legislation has been prepared, the domestication process moves into the legislative phase involving Parliament. Participants explained that Parliament plays a crucial role in formalising treaty implementation through the enactment of legislation required to give legal effect to international obligations.

Participant P11 described the parliamentary role as follows: “When treaty obligations require new legislation, Parliament must debate and approve the proposed law before the obligations can be implemented domestically.”

Participant P12 further explained that parliamentary committees play an important role in reviewing proposed legislation before it is adopted. According to this participant: “Committees analyse the proposed laws to ensure that they reflect both the requirements of the treaty and the broader interests of the country.” Through this legislative process, treaty obligations are formally incorporated into the domestic legal system, thereby transforming international commitments into enforceable national laws.

Participants also emphasised that domestication is not limited to the enactment of legislation. In many cases, treaty implementation requires administrative and institutional adjustments to ensure that the obligations contained in the treaty are effectively applied in practice. Participant P5 explained that: “Domestication is not only about passing laws. It also involves adjusting policies, administrative procedures, and institutional practices so that the treaty obligations can actually be implemented.”

This observation highlights the fact that treaty domestication involves both legal transformation and administrative adaptation. While legislation provides the formal legal basis for

implementation, administrative institutions must develop procedures and operational mechanisms through which those legal provisions can be applied.

Participants also emphasised that domestication is often a gradual and iterative process rather than a single legislative event. Participant P17 explained that: “Treaty domestication does not always happen immediately after ratification. It can involve several stages as institutions gradually integrate the treaty obligations into their legal and policy frameworks.”

This perspective suggests that domestication should be understood as a dynamic process through which international commitments are progressively incorporated into the national legal and governance system.

From an analytical standpoint, the findings indicate that the domestication of international human rights treaties in Uganda follows a multi-stage institutional process involving legal review, policy assessment, legislative development, and administrative implementation. Each stage is performed by different state institutions whose roles collectively shape the manner in which treaty obligations are translated into domestic law and practice.

The findings therefore demonstrate that treaty domestication in Uganda is not simply a legal formality but rather a structured institutional process through which international commitments are integrated into the country’s governance system. Understanding this process provides an important foundation for examining the broader factors that influence the effectiveness of treaty implementation within the national legal system.

#### **4.5 Alignment between Domestic Law and International Human Rights Treaties**

An important dimension of the ratification and domestication of international human rights treaties concerns the extent to which Uganda’s domestic legal framework reflects the obligations contained in those treaties. The findings from this study indicate that Uganda has made notable

efforts to integrate international human rights norms into its domestic legal system through constitutional provisions, statutory legislation, and policy frameworks. However, participants also emphasised that the relationship between international treaty obligations and domestic law is not always straightforward. Instead, alignment often occurs through gradual legal adaptation, interpretive engagement by courts and policymakers, and periodic legislative reforms aimed at harmonising national law with evolving international human rights standards.

Participants consistently identified the 1995 Constitution of Uganda as the most significant instrument through which international human rights principles are reflected in the domestic legal system. Several respondents noted that the Constitution incorporates a broad range of civil, political, economic, and social rights that correspond closely with provisions found in major international human rights treaties ratified by Uganda. These rights are primarily articulated in the Bill of Rights as well as in the National Objectives and Directive Principles of State Policy, which collectively establish the normative foundation for the protection and promotion of human rights within the country.

Participant P5 explained that: “Many of the rights contained in international human rights treaties are already reflected in the Constitution. This means that, in principle, Uganda’s constitutional framework is largely consistent with international human rights standards.”

Similarly, participant P2 observed that the Constitution reflects several fundamental rights recognised within international human rights instruments. According to this participant: “The Constitution recognises a wide range of rights such as equality before the law, freedom from discrimination, and protection of human dignity, which are also recognised in international human rights treaties.”

Participant P19 further emphasised that the constitutional framework provides an important point of convergence between domestic law and international legal norms. According to this participant: “When you look at the constitutional protections of fundamental rights, many of them correspond with international human rights commitments that Uganda has undertaken.”

These responses suggest that the Constitution functions as a normative anchor linking Uganda’s domestic legal order with the broader international human rights system. By incorporating a comprehensive catalogue of rights, the Constitution provides a legal basis through which international human rights principles may influence domestic legal interpretation and policy development.

In addition to constitutional protections, participants noted that Uganda has enacted several sector-specific laws that reflect obligations arising from international human rights treaties. These legislative measures address areas such as labour protection, gender equality, children’s rights, and social welfare. Participants indicated that such legislation often emerges as part of broader efforts to harmonise national laws with international treaty commitments.

Participant P9 explained that: “Over time, several pieces of legislation have been enacted to reflect international human rights commitments, particularly in areas such as labour protection and the rights of children.”

Participant P10 further noted that legislative reforms frequently follow Uganda’s ratification of treaties addressing specific policy areas. According to this participant: “When Uganda ratifies a treaty dealing with a particular area, the government often reviews existing legislation to determine whether reforms are needed to align domestic law with those obligations.”

These observations suggest that treaty ratification can function as an important driver of legislative development, encouraging governments to review existing legal frameworks and introduce reforms aimed at strengthening human rights protections. Through this process, international treaty commitments gradually influence the content and orientation of domestic legislation.

Participants also highlighted the role of judicial interpretation in promoting alignment between domestic law and international human rights standards. Courts may refer to international human rights instruments when interpreting constitutional provisions or resolving disputes involving fundamental rights. Participant P7 explained that: “International human rights instruments are sometimes used as interpretive guides when courts are considering issues related to fundamental rights.”

Similarly, participant P6 noted that judicial engagement with international legal norms can contribute to the progressive development of human rights jurisprudence within the country. According to this participant: “Courts sometimes draw on international human rights principles when interpreting constitutional rights, particularly where the Constitution does not provide detailed guidance.”

This interpretive practice illustrates how international treaties can influence domestic legal reasoning even where treaty provisions have not been fully incorporated into statutory law. By referencing international human rights standards, courts may contribute to the gradual harmonisation of domestic legal interpretation with international norms.

Despite these areas of alignment, participants also emphasised that certain gaps remain between Uganda’s domestic legal framework and its international human rights commitments.

While constitutional and statutory provisions reflect many international principles, the process of achieving full legal harmonisation is ongoing and sometimes uneven across different sectors.

Participant P13 explained that: “While many human rights principles are recognised in domestic law, there are areas where the legislation does not fully reflect the standards contained in international treaties.”

Participant P16 similarly observed that certain treaty obligations require more detailed legislative frameworks than those currently provided by existing national laws. According to this participant: “Some treaties contain very specific obligations that require detailed implementation measures, and those measures are not always reflected immediately in national legislation.”

These responses highlight the distinction between formal recognition of rights and the detailed legal mechanisms required for their implementation. Even where constitutional provisions recognise broad human rights principles, additional legislative measures may be necessary to ensure that these rights can be effectively enforced in practice.

Participants further explained that alignment between domestic law and international treaties often requires a process of legal interpretation and contextual adaptation. International human rights treaties frequently articulate general normative standards that must be translated into specific legal rules within the domestic legal system. Participant P1 explained that: “International treaties often contain broad principles, and translating those principles into domestic legislation requires careful interpretation to ensure that the laws are consistent with national legal structures.”

Participant P18 similarly noted that legal reforms aimed at aligning domestic law with international standards must consider the broader institutional and legal context within which those reforms will operate. According to this participant: “The goal is not simply to replicate treaty

provisions in domestic law, but to ensure that the principles contained in those treaties are reflected in a way that works within the national legal system.”

These observations highlight the complex nature of legal harmonisation between international and domestic legal systems. Alignment often involves interpretive engagement, legislative adaptation, and policy development, rather than direct replication of treaty provisions.

From an analytical perspective, the findings suggest that Uganda has achieved substantial but incomplete alignment between its domestic legal framework and international human rights treaty obligations. Constitutional protections, sector-specific legislation, and evolving judicial interpretation demonstrate that international human rights norms have influenced the development of domestic legal structures. However, the process of harmonising domestic law with international treaty commitments remains gradual and evolving.

This dynamic relationship reflects the broader reality that treaty domestication is rarely a single legislative event but rather a continuous process of legal and institutional adaptation. Through constitutional interpretation, legislative reform, and judicial engagement with international norms, Uganda’s legal system gradually integrates international human rights principles into domestic governance structures.

The findings indicate that the alignment between domestic law and international human rights treaties in Uganda reflects a process of progressive convergence, whereby international legal commitments influence domestic law through multiple channels of legal and institutional interaction. While significant progress has been made in incorporating international human rights norms within the national legal framework, the process of achieving full alignment continues to evolve through ongoing legal reforms and institutional practices.

#### **4.6 Implications of Treaty Ratification for the Protection and Promotion of Human Rights in Uganda**

The ratification of international human rights treaties carries important implications for the protection and promotion of human rights within domestic legal systems. In the context of Uganda, the findings from this study indicate that the ratification of international human rights instruments has influenced the development of national legislation, institutional practices, and public discourse on human rights. Participants emphasised that treaty ratification often functions as both a normative commitment and a catalyst for legal and policy reforms aimed at strengthening human rights protections within the country.

Participants consistently noted that one of the most significant implications of treaty ratification is the expansion and reinforcement of human rights protections within the domestic legal framework. By ratifying international treaties, Uganda formally commits itself to recognising and upholding internationally accepted standards relating to the protection of fundamental rights. Participant P5 explained that: “Ratification of international human rights treaties signals the country’s commitment to upholding internationally recognised standards of human dignity and equality.”

Participant P2 similarly observed that treaty ratification provides a framework through which domestic institutions can align their actions with broader international human rights principles. According to this participant: “When Uganda ratifies a treaty, it accepts a set of obligations that guide how institutions should approach the protection of human rights.” These responses suggest that treaty ratification serves an important normative function, establishing a

framework of expectations regarding how governments should protect and promote the rights of individuals within their jurisdictions.

Participants also emphasised that treaty ratification often influences the development of national legislation and policy reforms. Several respondents noted that ratification may prompt governments to review existing legal frameworks to ensure that domestic laws are consistent with international obligations. Participant P10 explained that: “Ratification of a treaty often leads to discussions about whether existing laws adequately reflect the commitments that the country has made at the international level.”

Participant P9 further noted that such reviews sometimes result in legislative reforms designed to strengthen protections for vulnerable groups. According to this participant: “In many cases, ratifying international human rights treaties encourages us to adopt laws that address issues such as discrimination, labour rights, or protection of children.” These findings indicate that treaty ratification can act as a driver of legal development, encouraging governments to introduce reforms that expand the scope of human rights protections within domestic legal systems.

Another important implication of treaty ratification identified by participants relates to the strengthening of institutional frameworks responsible for human rights protection. Participants explained that ratification often requires the establishment or strengthening of institutions tasked with monitoring compliance with international human rights obligations. Participant P13 explained that: “International treaties often require us to report on our progress in implementing human rights obligations, and this encourages governments to strengthen institutions responsible for monitoring human rights.”

Participant P16 similarly noted that institutions responsible for human rights oversight may draw on international treaty standards when evaluating government actions. According to this participant: “International human rights treaties provide benchmarks that we can use when assessing whether government policies and actions are consistent with human rights principles.” These responses suggest that treaty ratification contributes to the institutionalisation of human rights governance, encouraging the development of mechanisms through which governments can monitor and evaluate compliance with human rights obligations.

Participants also observed that treaty ratification may influence the development of human rights awareness and advocacy within society. International treaties often serve as reference points for civil society organisations, academic institutions, and human rights advocates who seek to promote greater respect for fundamental rights. Participant P16 explained that: “As civil society organisations we often rely on international human rights treaties when advocating for reforms or raising awareness about human rights issues.”

Similarly, participant P5 noted that international human rights norms frequently shape discussions about legal reform and public policy within academic and policy circles. These interactions contribute to the broader diffusion of human rights principles within the national legal and political environment.

Another implication of treaty ratification highlighted by participants concerns the influence of international human rights standards on judicial interpretation. Courts may refer to international human rights treaties when interpreting constitutional provisions relating to fundamental rights. Participant P7 explained that: “International human rights treaties sometimes guide judicial reasoning, particularly when courts are interpreting constitutional rights.” This interpretive

engagement suggests that treaty ratification may contribute to the evolution of domestic jurisprudence, allowing courts to draw on international standards when addressing complex human rights questions.

Participants also emphasised that treaty ratification enhances the international accountability of the state. By becoming party to international human rights treaties, Uganda accepts obligations to periodically report to international treaty bodies regarding the implementation of those instruments. Participant P3 explained that: “Ratification creates obligations not only domestically but also internationally, because the country must demonstrate how it is implementing those commitments.” This international reporting process encourages governments to reflect on their human rights practices and to take steps aimed at improving compliance with international standards.

From an analytical perspective, the findings suggest that the ratification of international human rights treaties has had multiple implications for the protection and promotion of human rights in Uganda. These implications extend beyond the formal act of ratification and influence a wide range of legal, institutional, and societal processes. Treaty ratification contributes to the development of domestic legislation, shapes institutional practices, informs judicial interpretation, and provides normative benchmarks that guide human rights advocacy and public discourse.

At the same time, the findings indicate that the full impact of treaty ratification depends on how effectively international commitments are translated into domestic legal and institutional practices. Ratification provides the foundation for strengthening human rights protections, but the extent to which these protections are realised ultimately depends on the interaction between legal frameworks, institutional capacity, and broader governance processes.

#### **4.7 Challenges Affecting the Ratification and Domestication of International Human Rights Treaties in Uganda**

While Uganda has established legal and institutional mechanisms for engaging with international human rights treaties, the findings of this study reveal that several challenges influence the effectiveness of the ratification and domestication process. Participants explained that translating international commitments into enforceable domestic protections involves navigating a complex set of legal procedures, institutional arrangements, and political considerations. These challenges affect different stages of the treaty process, from the decision to ratify international instruments to the incorporation of treaty obligations into national legislation and policy frameworks.

One challenge frequently identified by participants concerns the complexity of the legislative processes required to domesticate international treaties. As noted in earlier sections, Uganda operates within a dualist legal system, meaning that the ratification of an international treaty does not automatically incorporate its provisions into domestic law. Instead, treaty obligations often require the enactment or amendment of legislation before they can be implemented effectively within the national legal framework. Participants indicated that this requirement could slow the domestication process because proposed legislative reforms must pass through several procedural stages, including drafting, legal review, committee scrutiny, and parliamentary debate.

Participant P11 explained that: “Even after a treaty has been ratified, it cannot simply be applied domestically. It usually requires legislation, and the legislative process itself can take considerable time.” Participant P12 similarly observed that legislative procedures play an important role in ensuring democratic oversight, but they may also extend the period between

ratification and practical implementation. According to this participant: “The domestication process involves several steps before Parliament can pass the necessary laws, and each step requires consultations and legal review.”

These responses suggest that while legislative processes are essential for maintaining accountability and legal coherence, they may also influence the pace at which treaty obligations are integrated into domestic law.

Participants also highlighted institutional coordination among government agencies as another factor affecting the domestication process. As described in Section 4.4, the incorporation of treaty obligations into domestic law often requires collaboration among several government institutions, including the Ministry of Foreign Affairs, the Attorney General’s Chambers, Parliament, and sector-specific ministries responsible for implementing treaty provisions. Participants noted that coordinating the activities of these institutions can sometimes be challenging due to differences in institutional mandates and administrative procedures.

Participant P9 explained that: “Human rights treaties cut across many sectors of government, so effective domestication requires cooperation among several ministries.” Participant P10 added that: “Ensuring that all relevant institutions participate in the domestication process requires continuous communication and coordination.”

These observations suggest that treaty domestication is not solely a legal process but also an administrative one that depends on effective collaboration among different institutions responsible for translating international commitments into domestic policy and legislative frameworks.

Another challenge raised by participants concerns the availability of technical expertise needed to interpret and translate complex treaty provisions into domestic legislation. International

human rights treaties often contain detailed and sometimes highly technical provisions that require specialised knowledge in international law, legislative drafting, and policy development. Participants indicated that the interpretation of treaty obligations may require careful legal analysis to ensure that domestic legislation accurately reflects the intended scope of the treaty commitments.

Participant P5 explained that: “Some treaty provisions are very detailed and translating them into domestic legislation requires technical expertise in both international law and legislative drafting.” Participant P18 similarly noted that: “Legal drafters must interpret the treaty provisions carefully to ensure that the resulting legislation reflects the substance of the international obligations.”

These responses highlight the importance of technical capacity within government institutions to ensure that the domestication process accurately reflects international legal standards.

Participants also emphasised the role of political will as an important factor influencing both treaty ratification and domestication. While legal frameworks and institutional procedures provide mechanisms for adopting international treaties, participants noted that the prioritisation of treaty-related reforms often depends on the broader political environment and the willingness of government actors to advance legislative initiatives related to human rights obligations.

Participant P17 explained that: “The legal framework may exist, but moving from ratification to actual implementation often depends on whether there is sufficient political commitment to prioritise those reforms.” Participant P13 similarly observed that political considerations may influence the pace at which certain treaty obligations are incorporated into domestic law. According to this participant: “Some treaty commitments require significant policy

changes, and those changes sometimes depend on whether there is political support to move the process forward.”

These observations suggest that political commitment plays an important role in determining how quickly treaty obligations are translated into domestic legal reforms. Even where legal mechanisms exist, the domestication process may progress slowly if treaty implementation is not prioritised within the national legislative agenda.

Another challenge identified by participants relates to the timing and extent of parliamentary involvement in the treaty process. While Parliament plays a crucial role in approving legislation necessary for treaty domestication, participants explained that parliamentary engagement often occurs at the later stages of the process, after key decisions regarding treaty negotiation and ratification have already been made by the executive branch.

Participant P11 noted that: “In many cases Parliament becomes involved after the treaty has already been negotiated and ratified, which means that its role is largely focused on approving the legislation required for implementation.” Participant P12 similarly explained that parliamentary review may occur at a stage where the core commitments contained in the treaty have already been established. According to this participant: “Parliament generally deals with the domestication aspect, but the earlier stages of treaty negotiation and signing are usually handled by the executive.”

These responses suggest that parliamentary involvement in treaty processes may sometimes be reactive rather than proactive, focusing primarily on legislative implementation rather than shaping treaty commitments during the negotiation phase. From an analytical perspective, this arrangement reflects the constitutional allocation of responsibilities between the executive and legislative branches in matters of international relations. However, participants

indicated that earlier parliamentary engagement could potentially enhance legislative oversight and strengthen democratic participation in treaty governance.

Participants also pointed to the challenge of maintaining consistent alignment between evolving domestic laws and international treaty obligations. As discussed in Section 4.5, Uganda has incorporated many international human rights principles into its constitutional and legislative frameworks. However, maintaining alignment requires periodic review of domestic laws to ensure that they continue to reflect international commitments.

Participant P16 explained that: “Domestic legislation evolves over time, and maintaining consistency with international treaty obligations requires ongoing legal review.” Participant P1 added that: “Ensuring alignment between domestic law and international treaties is not a one-time exercise. It requires continuous engagement with both national and international legal developments.” These responses highlight the dynamic nature of treaty domestication, where legal harmonisation must adapt to evolving legal standards and governance contexts.

From an analytical perspective, the findings suggest that the challenges affecting treaty ratification and domestication in Uganda arise from the interaction between legal procedures, institutional coordination, and political dynamics. While Uganda possesses a structured legal framework for engaging with international human rights treaties, the effective translation of these commitments into domestic law requires sustained institutional collaboration, adequate technical expertise, and consistent political commitment to advancing human rights reforms.

#### **4.8 Summary of Findings**

This chapter presented and analysed the empirical findings of the study on the ratification and domestic incorporation of international human rights treaties in Uganda. The findings were derived from qualitative interviews with key informants drawn from government institutions,

academic institutions, legal practitioners, and civil society organisations, as well as from documentary analysis of relevant legal and policy instruments. The chapter examined the legal and institutional frameworks governing treaty ratification, the processes through which international treaties are domesticated within the domestic legal system, the extent to which domestic laws align with international human rights obligations, the implications of treaty ratification for human rights protection, and the challenges affecting the implementation of international human rights commitments in Uganda.

The findings revealed that Uganda possesses a structured legal framework governing treaty ratification, primarily anchored in the Constitution of the Republic of Uganda (1995) and the Ratification of Treaties Act (1998). Participants indicated that these legal instruments establish the formal procedures through which international treaties are negotiated, approved, and ratified. The constitutional framework provides the overarching legal authority for Uganda's engagement with international agreements, while the Ratification of Treaties Act establishes procedural mechanisms for determining when parliamentary approval is required before treaties can be ratified. These legal structures therefore provide the formal basis through which Uganda participates in the international human rights system.

The chapter further demonstrated that the domestication of international human rights treaties involves a multi-institutional process involving several state actors. The findings indicated that institutions such as the Ministry of Foreign Affairs, the Attorney General's Chambers, sector-specific ministries, and Parliament play distinct but interconnected roles in translating treaty obligations into domestic legislation and policy frameworks. The process of domestication typically involves legal review of treaty provisions, assessment of policy implications by relevant ministries, drafting of legislative proposals where necessary, and parliamentary approval of

legislation required to give effect to treaty obligations. These processes illustrate how international commitments are gradually incorporated into the domestic legal system through coordinated institutional action.

The findings also showed that Uganda has achieved substantial but evolving alignment between domestic legal frameworks and international human rights treaties. Participants noted that many fundamental rights recognised in international human rights instruments are reflected in Uganda's constitutional framework, particularly within the Bill of Rights. In addition, several sector-specific laws addressing issues such as labour rights, children's rights, and social protection reflect obligations arising from international treaties. Courts may also draw upon international human rights standards when interpreting constitutional rights, thereby contributing to the gradual harmonisation of domestic jurisprudence with international legal norms. However, participants indicated that the process of aligning domestic legislation with international treaty obligations remains ongoing and requires periodic legislative review and reform.

Another key finding of the study concerns the implications of treaty ratification for the protection and promotion of human rights within Uganda. Participants emphasised that ratification often functions as a catalyst for legal reform, institutional development, and public awareness regarding human rights issues. International human rights treaties provide normative standards that influence legislative development, judicial interpretation, and policy formulation. They also create international reporting obligations that encourage governments to assess their progress in implementing human rights commitments. Through these mechanisms, treaty ratification contributes to strengthening the normative and institutional foundations of human rights governance within the country.

Despite these positive developments, the findings also revealed several challenges affecting the ratification and domestication of international human rights treaties in Uganda. These challenges include the complexity of legislative procedures required to domesticate treaties within a dualist legal system, coordination difficulties among multiple institutions involved in the domestication process, and the need for specialised legal expertise in interpreting and translating treaty obligations into domestic legislation. Participants also highlighted the role of political will in determining the extent to which treaty obligations are prioritised within the legislative agenda. In addition, parliamentary involvement in treaty processes often occurs at later stages, primarily during the domestication phase, which may limit opportunities for earlier legislative engagement in treaty negotiations.

Taken together, these findings demonstrate that the ratification and domestication of international human rights treaties in Uganda involve a dynamic interaction between legal frameworks, institutional processes, and broader governance factors. While Uganda has established important legal and institutional structures for engaging with international human rights commitments, the effectiveness of these structures depends on how they operate within the broader political and administrative context of the state.

The findings presented in this chapter therefore provide a comprehensive understanding of how international human rights treaties are ratified and domesticated within the Ugandan legal system. The next chapter builds on these findings by discussing them in relation to existing literature and theoretical perspectives on treaty ratification and domestic incorporation of international human rights obligations. Through this discussion, the study seeks to interpret the significance of the findings and explore their implications for the broader field of international human rights law and governance.

## CHAPTER 5: INTERPRETATION OF FINDINGS, RECOMMENDATIONS, AND CONCLUSIONS

### 5.1 Introduction

This chapter presents a critical discussion of the findings of the study on the ratification and domestic incorporation of international human rights treaties in Uganda. While Chapter Four presented the empirical findings derived from interviews with key informants and documentary analysis, the purpose of this chapter is to interpret those findings in relation to the broader legal, institutional, and theoretical debates surrounding the implementation of international human rights obligations within domestic legal systems. In doing so, the chapter examines the implications of the findings for understanding how international human rights treaties operate within Uganda's legal and governance framework.

The study sought to examine the legal and institutional processes that shape the ratification and domestication of international human rights treaties in Uganda. Specifically, it investigated the effectiveness of treaty ratification mechanisms, the role of institutional actors in the domestication process, the extent to which domestic laws align with international human rights obligations, and the implications of Uganda's status as a state party to international human rights treaties. The findings presented in the previous chapter revealed that while Uganda possesses a structured legal and institutional framework for engaging with international human rights treaties, the process through which these treaties are incorporated into domestic law is shaped by a complex interaction of legal procedures, institutional dynamics, and broader governance considerations.

This chapter therefore moves beyond the presentation of empirical findings to explore their broader significance. The discussion situates the findings within the wider scholarship on treaty

ratification, domestication, and the relationship between international law and domestic legal systems. Particular attention is given to the implications of Uganda's dualist legal framework, which requires international treaty obligations to be incorporated into domestic legislation before they can be applied within the national legal system. By analysing how this framework operates in practice, the chapter contributes to a deeper understanding of the institutional and legal factors that influence the implementation of international human rights obligations in states with similar legal traditions.

The chapter is organised into several sections. Section 5.2 interprets the main findings of the study by examining four key themes: the effectiveness of treaty ratification and domestication mechanisms, the role of institutional frameworks in treaty implementation, the extent of alignment between domestic laws and international human rights treaties, and the implications of Uganda's participation in the international human rights system. Section 5.3 highlights the contribution of the study to the existing body of knowledge on treaty domestication and human rights governance. Section 5.4 provides a limited set of recommendations arising from the study's findings, while Section 5.5 identifies areas for future research. The chapter concludes in Section 5.6 by summarising the overall conclusions of the study and reflecting on the broader implications of the research for understanding the interaction between international human rights law and domestic legal systems. Through this discussion, the chapter seeks to demonstrate how the findings of the study contribute to ongoing debates regarding the effectiveness of international human rights treaties and the institutional processes through which international legal commitments are translated into domestic legal practice.

## 5.2 Interpretation of Findings

This section interprets the findings presented in Chapter Four by examining their broader implications within the context of existing scholarship on treaty ratification, domestication, and the relationship between international and domestic legal systems. The discussion analyses the findings in relation to relevant academic literature, international human rights practice, and institutional governance frameworks. The interpretation is organised around the five central themes that emerged from the study: the effectiveness of treaty ratification and domestication mechanisms, the role of institutional frameworks in implementing treaty obligations, the degree of alignment between domestic law and international human rights treaties, the implications of Uganda's status as a state party to international human rights instruments, and the challenges in ratification and domestication. Each theme is examined to assess how the study's findings contribute to existing knowledge and to highlight areas where the Ugandan experience confirms, challenges, or extends current understandings of treaty implementation in dualist legal systems.

### 5.2.1 Legal Framework Governing Treaty Ratification in Uganda.

The findings of this study indicate that Uganda has developed a structured and legally grounded framework governing the ratification of international treaties, anchored primarily in the Constitution of the Republic of Uganda (1995) and the Ratification of Treaties Act (Cap. 204). These legal instruments collectively establish the procedural and normative foundation through which the state assumes international obligations. Within this framework, treaty ratification is not treated as a purely diplomatic or political undertaking, but rather as a legally regulated process situated within the constitutional order. This reflects an important shift from traditional conceptions of treaty-making as an exclusive executive prerogative toward a more regulated model

in which legal norms constrain and guide the exercise of state power in international relations. As Klabbers (2021) observes, contemporary constitutional systems increasingly seek to embed treaty-making within formal legal frameworks to ensure accountability and coherence with domestic legal principles. In a similar vein, Bradley (2020) emphasises that such legal regulation is critical in preventing the arbitrary exercise of executive authority in international engagements, thereby reinforcing the supremacy of constitutional governance. In the Ugandan context, this legal structuring demonstrates an attempt to align international engagement with domestic constitutional values, ensuring that treaty commitments are undertaken within a clearly defined legal framework.

Evidence from parliamentary debates further reinforces the understanding of treaty-making as a constitutionally embedded legal process rather than a purely external function of the state. During deliberations on the Ratification of Treaties Act, Members of Parliament underscored the necessity of grounding treaty ratification within a clear and enforceable legal framework in order to protect legislative authority and uphold constitutional order (Parliament of Uganda, Hansard, 2019). These debates reveal a heightened awareness among legislators that international agreements are not neutral instruments of diplomacy, but may have significant implications for domestic legal systems, including the potential to affect statutory law, public policy, and constitutional rights. As a result, parliamentary discourse emphasised the need for structured procedures that ensure treaties are subjected to rigorous legal scrutiny before ratification. This reflects a broader constitutional concern with maintaining the integrity of the domestic legal system in the face of expanding international obligations. The Hansard debates therefore illustrate how treaty ratification is conceptualised within Uganda not merely as an act of foreign policy, but as an internal constitutional process requiring legal validation, transparency, and institutional accountability.

The Constitution provides the overarching legal context within which treaty obligations operate by establishing fundamental principles such as the supremacy of the Constitution, the separation of powers, and the protection of fundamental rights. These principles serve as the normative benchmarks against which international commitments are evaluated before they are incorporated into domestic law. Although the Constitution does not explicitly provide a detailed procedural framework for treaty domestication, it nonetheless creates the legal environment within which such processes must occur. The Ratification of Treaties Act builds upon this constitutional foundation by introducing specific procedural mechanisms governing the approval and ratification of international agreements. Notably, the Act categorises treaties according to their subject matter and legal significance, thereby determining whether parliamentary approval is required prior to ratification. This categorisation reflects a nuanced understanding that treaties differ in their potential impact on domestic legal and governance structures, and therefore require differentiated levels of scrutiny. By establishing such distinctions, the legal framework introduces a structured approach to treaty ratification that seeks to balance efficiency in international engagement with the need for legal oversight and constitutional compliance.

This procedural structuring has also been recognised and evaluated within international and regional monitoring processes, further reinforcing its significance within Uganda's treaty governance system. The United Nations Human Rights Committee, in its Concluding Observations on Uganda, has acknowledged the existence of a formal legal framework governing treaty engagement, while at the same time emphasising the need for such frameworks to function effectively in practice, particularly in safeguarding constitutional rights and ensuring legal certainty (Human Rights Committee, 2023). This observation highlights that the mere existence of legal procedures is insufficient unless they are supported by consistent application and alignment

with constitutional principles. Similarly, the African Commission on Human and Peoples' Rights has recognised that the establishment of legal mechanisms for treaty ratification constitutes an important step toward integrating international human rights standards into domestic legal systems (African Commission, 2020). At the same time, the Commission has emphasised the need for these mechanisms to operate within a broader framework of constitutional governance that ensures accountability and responsiveness to human rights obligations. These external assessments place Uganda's legal framework within a wider international discourse, where the formalisation of treaty-making processes is increasingly viewed as a critical component of effective and legitimate engagement with international law.

The allocation of responsibilities between the executive and the legislature under Uganda's treaty framework reflects a legally structured distribution of authority within the treaty-making process. The executive branch retains primary responsibility for negotiating and signing treaties, consistent with its constitutional mandate to manage foreign relations and represent the state in international affairs. At the same time, the legislature is assigned a defined legal role in approving certain categories of treaties, particularly those with significant implications for domestic law and governance. This arrangement illustrates a deliberate effort to balance functional efficiency in foreign relations with the requirements of constitutional accountability. As Verdier and Voeten (2020) observe, such shared arrangements are characteristic of modern constitutional systems, where the concentration of treaty-making power in the executive is moderated by legislative oversight mechanisms. Bradley (2020) similarly notes that legislative participation serves as a critical constitutional safeguard by ensuring that international commitments are subjected to domestic legal scrutiny before they acquire binding effect within the national legal order.

Parliamentary debates further demonstrate that this allocation of authority is not merely formal but grounded in substantive constitutional concerns about preserving legislative competence and protecting the integrity of domestic law. Discussions recorded in the Uganda Parliamentary Hansard reveal that Members of Parliament have consistently emphasised the need for meaningful oversight of treaty commitments, particularly to prevent the executive from assuming international obligations that may conflict with existing laws or exceed constitutional limits (Parliament of Uganda, Hansard, 2023). These debates reflect an underlying legal principle that treaty-making must operate within the confines of constitutional authority and must not undermine the supremacy of domestic law. In this regard, Parliament's role is framed not simply as a procedural requirement but as a constitutional safeguard aimed at ensuring that international engagements remain aligned with national legal frameworks. The emphasis placed by legislators on scrutiny and oversight underscores the perception of Parliament as a guardian of the domestic legal order in the context of expanding international obligations.

The findings further indicate that Uganda's legal framework embodies key characteristics of a dualist legal system, in which international treaties do not automatically form part of domestic law upon ratification. Instead, treaty obligations require formal incorporation through legislative or administrative measures before they can have direct legal effect within the domestic legal system. This distinction reflects a clear conceptual separation between international law and municipal law, whereby treaties create binding obligations at the international level but do not, in themselves, generate enforceable rights within the domestic legal order unless they are transformed into national law. As Klabbers (2021) explains, dualist systems emphasise the role of domestic legal processes as the primary mechanism through which international obligations acquire internal legal force. This position is further supported by Dixon, McCorquodale and Williams (2021), who argue

that the requirement for transformation reinforces the supremacy of domestic legal systems while ensuring that international commitments are integrated in a manner consistent with national constitutional structures.

This dualist orientation has also been recognised in observations by international and regional monitoring bodies. The Committee on Economic, Social and Cultural Rights (CESCR) has noted that while Uganda's constitutional framework reflects commitments consistent with international human rights standards, the absence of automatic incorporation mechanisms necessitates reliance on legislative processes to give effect to treaty obligations (CESCR, 2023). This observation highlights the central role of domestic legal processes in determining the enforceability of international norms. Similarly, the African Commission on Human and Peoples' Rights has underscored the importance of domestic legal transformation in ensuring that international human rights obligations are effectively integrated into national legal systems (African Commission, 2020). These assessments reinforce the understanding that Uganda's treaty framework operates within a legal paradigm that prioritises formal incorporation as a prerequisite for domestic applicability.

From a doctrinal perspective, the dualist nature of Uganda's legal system establishes a two-stage legal process through which treaty obligations acquire domestic relevance. The first stage involves the assumption of obligations at the international level through ratification, while the second stage requires their incorporation into domestic law through recognised legislative or administrative mechanisms. Peters (2019) argues that such a structure places significant responsibility on domestic legal systems to determine how international norms are internalised and applied within national contexts. Verdier and Voeten (2020) further emphasise that the effectiveness of treaty obligations ultimately depends on the extent to which they are translated into enforceable domestic

rules. Within this framework, treaty ratification functions as a gateway through which international commitments enter the domestic legal system, but their legal force is contingent upon subsequent processes of incorporation that are governed by constitutional and legislative requirements.

The role of legal interpretation further reinforces the operation of Uganda's treaty ratification framework by shaping how formally incorporated treaty obligations acquire meaning within the domestic legal system. Even where legislative incorporation has taken place, the practical effect of treaty provisions depends on how they are interpreted by courts and other legally mandated actors within the framework of constitutional and statutory law. In this respect, interpretation functions as a critical legal bridge between abstract international obligations and their concrete application within the national legal order. Hathaway and Shapiro (2022) argue that international law derives its practical significance from processes of domestic interpretation and enforcement, while Linos and Pegram (2022) emphasise that the translation of international norms into domestic legal principles is mediated through interpretive practices grounded in national legal systems. In Uganda, this interpretive process operates within the constraints of constitutional supremacy, requiring that treaty provisions once incorporated be read in a manner consistent with constitutional guarantees and existing legislative frameworks.

The significance of legal interpretation is further underscored by observations from international monitoring bodies, which highlight challenges associated with the application of treaty-based rights within domestic systems. The United Nations Human Rights Committee, for instance, has raised concerns regarding inconsistencies in the interpretation and application of civil and political rights within Uganda, noting that the absence of clear and uniform interpretive approaches may limit the effective enforcement of treaty obligations (Human Rights Committee, 2023). Similarly, the Committee on Economic, Social and Cultural Rights (CESCR) has emphasised that the

realisation of socio-economic rights depends not only on legislative incorporation but also on the development of coherent interpretive frameworks capable of guiding their application within domestic legal systems (CESCR, 2023). At the regional level, the African Commission on Human and Peoples' Rights has also highlighted that the effectiveness of international human rights standards is contingent upon how they are interpreted within national legal contexts, particularly in relation to access to justice and the protection of vulnerable groups (African Commission, 2020). These observations collectively reinforce the view that interpretation is an integral component of treaty governance, shaping the extent to which formally adopted obligations are translated into enforceable legal standards.

These findings demonstrate that the legal framework governing treaty ratification in Uganda is defined not only by constitutional provisions and statutory procedures but also by doctrinal elements associated with dualism and legal interpretation. The Constitution and the Ratification of Treaties Act establish the formal legal structure for treaty engagement, while processes such as parliamentary approval, legislative incorporation, and judicial or legal interpretation determine how treaty obligations acquire meaning and effect within the domestic legal system. In this sense, the framework operates as a legally structured pathway through which international commitments are filtered, validated, and ultimately integrated into Uganda's domestic legal order.

### **5.2.2 Institutional Framework for Treaty Domestication**

The findings of this study reveal that the domestication of international human rights treaties in Uganda is shaped by a complex institutional framework involving several state actors with distinct but interrelated roles. These actors include the Ministry of Foreign Affairs, the Office of the Attorney General, Parliament, sectoral ministries responsible for policy implementation, and

independent oversight institutions such as the UHRC. Each of these institutions contributes to different stages of the treaty domestication process, ranging from treaty negotiation and ratification to legislative incorporation and policy implementation. The interaction between these institutions determines how international treaty commitments move from the stage of ratification to effective implementation within the domestic legal system. The institutional configuration through which treaty obligations are processed is therefore an important factor in determining whether international human rights commitments are translated into meaningful legal and policy outcomes within national governance structures.

Recent scholarship in international law and global governance increasingly emphasises that the effectiveness of treaty implementation depends not only on the existence of formal legal frameworks but also on the institutional arrangements through which states operationalise treaty commitments. In this regard, the domestic institutional architecture responsible for interpreting and implementing international legal obligations plays a central role in determining whether treaty provisions acquire practical legal effect within national systems (Hillebrecht, 2021; Linos & Pegram, 2022). Studies examining treaty compliance have shown that domestic institutions serve as critical intermediaries between international legal norms and domestic governance practices, translating abstract treaty commitments into concrete legal and administrative measures. Consequently, the structure and coordination of domestic institutions can significantly influence the extent to which international human rights treaties contribute to improvements in human rights protection at the national level.

Under Uganda's governance structure, the Ministry of Foreign Affairs plays a central role in the negotiation, signature, and coordination of international treaties. As the institution

responsible for managing Uganda's diplomatic relations and participation in international organisations, the Ministry acts as the primary gateway through which treaty commitments enter the domestic legal system. In practice, this responsibility includes coordinating Uganda's participation in treaty negotiations, facilitating diplomatic engagement with international partners, and maintaining communication with international treaty monitoring bodies. The Ministry therefore performs an essential function in representing the state in international legal processes and ensuring that Uganda participates in global governance frameworks associated with international law.

The role of foreign affairs ministries in treaty processes has been widely documented in international law scholarship. In many states, ministries responsible for foreign affairs act as the central coordinating bodies for treaty negotiation and international legal engagement, ensuring that treaty commitments align with national diplomatic priorities and international obligations (Klabbers, 2021; Bradley, 2020). These institutions typically facilitate communication between domestic actors and international organisations responsible for treaty oversight, including United Nations treaty bodies and regional human rights institutions. Within this institutional arrangement, foreign affairs ministries often function as the initial point of contact through which international legal commitments are introduced into the domestic governance system.

The findings of this study suggest that while the Ministry of Foreign Affairs plays a crucial role in initiating treaty engagement at the international level, the responsibility for translating treaty obligations into domestic law and policy gradually shifts to other institutions once ratification has occurred. This institutional transition reflects the broader governance structure through which international legal obligations are integrated into domestic legal systems. While the

negotiation and signature of treaties fall primarily within the domain of diplomatic institutions, the implementation of treaty commitments typically requires the involvement of domestic legal and legislative institutions responsible for ensuring that international obligations are incorporated into national law.

One of the most significant institutional actors in this process is the Office of the Attorney General, which serves as the principal legal adviser to the government under the Constitution of Uganda. The Attorney General's Chambers play a crucial role in reviewing treaty provisions, advising government institutions on their legal implications, and facilitating the drafting of legislation required to implement treaty obligations. This advisory function ensures that proposed treaty commitments are examined in relation to Uganda's constitutional framework and existing domestic legislation before they are incorporated into national law. In performing this role, the Attorney General's Chambers contribute to the legal interpretation of treaty obligations and help ensure that the domestication process is consistent with the broader legal framework of the state.

The legal advisory responsibilities of the Attorney General are particularly significant in dualist legal systems such as Uganda's, where international treaties do not automatically become part of domestic law upon ratification. Instead, treaty provisions must be incorporated through legislative or regulatory measures before they can be applied by domestic courts and administrative authorities. Linos and Pegram (2022) emphasise that in such systems, legal advisory institutions play a central role in interpreting treaty obligations and identifying the legislative reforms required to give domestic effect to international commitments. Scholars have noted that institutions responsible for government legal advice often act as important intermediaries between

international law and domestic governance structures, translating treaty provisions into legal frameworks that can be applied within national legal systems (Verdier, 2020; Hillebrecht, 2021).

In practice, the Attorney General's Chambers frequently engage with other government institutions responsible for implementing treaty obligations in specific policy sectors. Through this interaction, legal advisors provide guidance on how treaty commitments should be interpreted and incorporated into legislative and regulatory frameworks. The process may involve reviewing proposed legislation, advising ministries on the legal implications of international obligations, and ensuring that domestic laws reflect the rights and responsibilities contained in international treaties. This institutional interaction illustrates the role of legal advisory bodies in facilitating the internalisation of international legal norms within domestic governance systems.

The involvement of the Attorney General in treaty domestication also highlights the broader institutional processes through which international legal obligations are interpreted and operationalised at the national level. Because international treaties often contain provisions that require detailed legislative or administrative measures for their implementation, the process of translating these provisions into domestic law requires careful legal interpretation and coordination among multiple government actors (Pegram, 2023). In this regard, legal advisory institutions serve an important function in ensuring that treaty obligations are incorporated into domestic legal frameworks in a manner consistent with constitutional principles and legislative requirements.

Official legal guidance from the Attorney General's Chambers often addresses issues relating to the compatibility of treaty obligations with existing domestic legislation. In the context of Uganda's dualist legal system, this advisory role is particularly significant because international treaty provisions must be carefully examined to ensure that they align with the constitutional

framework and statutory laws before they can be incorporated into the domestic legal order. Legal advisors within the Attorney General's Chambers therefore play a critical role in interpreting treaty provisions and determining whether existing legislation adequately reflects the obligations contained in international agreements. Where inconsistencies between treaty provisions and domestic law are identified, the Attorney General's Chambers may advise government ministries on the need for legislative amendments or the enactment of new implementing legislation.

These advisory processes contribute to ensuring that treaty domestication occurs within the parameters of Uganda's constitutional order. By reviewing treaty obligations before they are incorporated into domestic legislation, the Attorney General's Chambers help prevent potential conflicts between international commitments and domestic legal frameworks. Scholars examining the relationship between international law and domestic governance have emphasised that legal advisory institutions frequently act as key intermediaries in the internalisation of international legal norms within national legal systems (Voeten, 2021; Hathaway, 2021). In dualist jurisdictions, where international law does not automatically become part of domestic law, the role of government legal advisors becomes particularly important because they facilitate the translation of treaty provisions into legal forms that are compatible with domestic legislative structures.

Although legal opinions issued by the Attorney General's Chambers are not always publicly accessible, their influence on legislative drafting and policy development is widely recognised within government practice. Parliamentary discussions and policy consultations relating to treaty implementation frequently reference the need for legal guidance from the Attorney General when assessing the domestic implications of international agreements (Parliament of Uganda, Hansard, 2022). Through these interactions, legal advisory institutions

contribute to shaping the legislative and administrative processes through which treaty obligations are incorporated into national law. The involvement of the Attorney General's Chambers therefore reflects the broader institutional processes through which international legal commitments are interpreted and operationalised within domestic governance systems.

Another key institution within the domestication process is Parliament, which exercises legislative authority in approving laws necessary to give effect to treaty obligations. Within Uganda's constitutional framework, Parliament is responsible for enacting legislation that incorporates treaty commitments into domestic law and for ensuring that such legislation aligns with the broader legal and policy priorities of the state. Under the Ratification of Treaties Act, Parliament also plays a formal role in reviewing certain categories of treaties before they are ratified or implemented within the domestic legal system. This legislative review process provides an opportunity for elected representatives to examine the legal and policy implications of international agreements and to determine whether domestic legislative measures are required to implement treaty obligations effectively.

Parliamentary oversight is particularly significant in situations where treaty obligations require amendments to existing legislation or introduce new regulatory frameworks that affect national governance structures. In such cases, parliamentary deliberations provide a forum through which the potential implications of treaty commitments can be evaluated in relation to domestic legal principles and public policy considerations. Debates recorded in the Uganda Parliamentary Hansard indicate that legislators have repeatedly emphasised the importance of ensuring that international agreements are subjected to careful scrutiny before they are incorporated into domestic law (Parliament of Uganda, Hansard, 2024). During discussions relating to the enactment

and implementation of the Ratification of Treaties Act, members of Parliament highlighted the need for legislative oversight to safeguard national interests and ensure that international obligations are consistent with Uganda's constitutional framework (Parliament of Uganda, Hansard, 2019).

The legislative scrutiny exercised by Parliament also contributes to the broader principle of democratic accountability within the treaty-making process. Scholars have observed that legislative involvement in treaty governance can enhance transparency and legitimacy by allowing elected representatives to participate in decisions that shape the state's international legal commitments (Bradley, 2020). Parliamentary deliberations therefore serve not only as a mechanism for reviewing the legal implications of treaties but also as a platform for public debate on the domestic consequences of international agreements. Through this process, Parliament helps ensure that treaty domestication occurs within a framework of democratic governance and legislative accountability.

Despite the importance of parliamentary oversight in treaty domestication, the findings of this study suggest that parliamentary involvement in treaty governance in Uganda often occurs at a relatively late stage of the process. In many instances, Parliament becomes actively engaged only during the domestication phase, when legislation is required to give domestic effect to treaty obligations. The earlier stages of treaty negotiation and signature are typically managed by the executive branch, particularly through institutions responsible for foreign affairs and international diplomacy. This institutional arrangement reflects a broader pattern observed in many states where executive authorities exercise primary responsibility for conducting foreign relations, while legislative bodies focus on the domestic implementation of treaty obligations.

Comparative scholarship on treaty governance has noted that such institutional arrangements may influence the balance of authority between executive and legislative actors within the treaty-making process. Because treaty negotiations frequently occur within diplomatic settings controlled by executive institutions, legislatures often review treaty commitments only after the negotiation phase has been completed and the treaty text finalised. As a result, legislative bodies may have limited opportunities to influence the substantive content of treaty obligations during the early stages of negotiation (Klabbers, 2021). Instead, their involvement tends to concentrate on the legislative measures required to incorporate treaty commitments into domestic legal frameworks.

The Ugandan experience reflects similar structural dynamics that have been identified in other states operating within dualist legal systems. In such systems, the executive branch often assumes responsibility for negotiating and signing international agreements, while legislatures exercise oversight through the ratification and domestication processes. This division of institutional responsibilities allows governments to conduct international negotiations efficiently while maintaining legislative oversight over the domestic legal implications of treaty commitments. At the same time, scholars have observed that limited legislative participation during the early stages of treaty negotiation may reduce opportunities for parliamentary influence over the substance of international agreements (Bradley, 2020; Klabbers, 2021).

In addition to the executive and legislative branches, sectoral ministries play an important role in implementing treaty obligations within specific policy domains. Once treaty commitments have been incorporated into the domestic legal framework through legislative or regulatory measures, responsibility for their practical implementation frequently rests with government

ministries responsible for relevant policy sectors. In Uganda, ministries responsible for gender, labour, education, health, and social development are often tasked with translating international human rights obligations into sector-specific policies, programmes, and administrative regulations. Through these mechanisms, treaty commitments are operationalised within areas of governance that directly affect the protection and promotion of human rights. The implementation of treaty obligations therefore extends beyond the formal legal processes of ratification and domestication to include administrative and policy measures carried out by institutions responsible for service delivery and regulatory oversight.

This decentralised approach to treaty implementation reflects governance practices observed in many states where sectoral ministries assume responsibility for implementing international commitments within their respective policy areas. International human rights treaties frequently address issues that intersect with multiple areas of governance, including labour rights, gender equality, public health, education, and social welfare. As a result, their implementation often requires the participation of several government institutions operating under different legal mandates and administrative structures. Scholars examining treaty implementation have emphasised that such sectoral distribution of responsibilities is common in contemporary governance systems, where specialised institutions translate international obligations into policy interventions within their areas of expertise (Linos & Pogram, 2022; Hillebrecht, 2021). This institutional arrangement enables governments to address complex human rights obligations through policy frameworks tailored to specific sectors while maintaining consistency with broader international commitments.

However, the findings of this study indicate that coordination among sectoral ministries involved in treaty implementation may sometimes be limited, which can affect the speed and consistency with which treaty obligations are incorporated into domestic policy frameworks. Because different ministries may operate according to distinct policy priorities and administrative procedures, ensuring effective collaboration across institutions responsible for implementing treaty commitments can present significant governance challenges. In some cases, ministries may focus primarily on sector-specific policy objectives without sustained coordination with other institutions involved in the treaty domestication process. Such institutional fragmentation can slow the process through which international legal commitments are translated into coherent domestic policies and regulatory frameworks. International governance literature has repeatedly highlighted the importance of inter-agency coordination mechanisms in facilitating the effective implementation of international agreements within domestic administrative systems (Pegram & Linos, 2022; Chayes & Chayes, 2021).

The importance of effective institutional coordination has also been highlighted in international monitoring reports evaluating Uganda's compliance with human rights treaty obligations. The Committee on the Elimination of Discrimination against Women (CEDAW Committee), in its *Concluding Observations on the Eighth Periodic Report of Uganda*, emphasised the need for stronger coordination among government institutions responsible for implementing gender-related treaty obligations. The Committee observed that while Uganda has adopted legislative and policy measures aimed at promoting gender equality, improved coordination among ministries responsible for gender, justice, and social development would enhance the effectiveness of these measures (CEDAW Committee, 2022). Such observations illustrate how treaty monitoring

bodies frequently emphasise the importance of institutional coordination in ensuring that treaty commitments are translated into effective policy frameworks at the national level.

Similarly, the Committee on the Rights of the Child (CRC Committee) highlighted the role of institutional coordination in strengthening the implementation of children's rights in Uganda. In its *Concluding Observations on Uganda's Combined Fifth and Sixth Periodic Reports*, the Committee acknowledged the establishment of several institutions responsible for promoting and protecting children's rights but noted that improved coordination among these institutions, together with enhanced resource allocation, would be necessary to ensure more effective implementation of treaty commitments (CRC Committee, 2023). These recommendations reflect broader international concerns regarding the challenges that many states face in translating treaty obligations into coordinated policy responses across multiple sectors of government.

Regional monitoring mechanisms have also emphasised the importance of institutional capacity and oversight structures in implementing human rights treaties. The African Commission on Human and Peoples' Rights, in its evaluation of Uganda's periodic reports under the African Charter on Human and Peoples' Rights, highlighted the role of national human rights institutions in supporting compliance with international human rights standards (African Commission on Human and Peoples' Rights, 2020). National human rights institutions often serve as important domestic oversight bodies that monitor the implementation of treaty obligations and provide independent assessments of the state's human rights performance. Through investigations, reporting mechanisms, and engagement with international monitoring bodies, these institutions contribute to strengthening accountability for human rights obligations at the national level.

In Uganda, the Uganda Human Rights Commission (UHRC) serves as an independent constitutional body responsible for monitoring the protection and promotion of human rights. Established under the Constitution of Uganda, the Commission performs several functions that contribute to the operationalisation of international human rights norms within the domestic legal system. These functions include receiving and investigating complaints of human rights violations, conducting public inquiries, and producing annual reports evaluating the state of human rights protection in the country. The Commission frequently references international human rights treaties in its reports and investigations, demonstrating how domestic oversight institutions contribute to integrating international legal standards into national human rights governance. By referencing treaty provisions in its monitoring activities, the UHRC helps reinforce the relevance of international human rights norms within domestic legal and policy discussions.

Recent scholarship has further emphasised that the effectiveness of treaty implementation is closely linked to the institutional capacity of domestic governance structures. Institutional capacity includes factors such as the availability of legal expertise within government institutions, the allocation of administrative resources necessary to implement policy reforms, and the existence of mechanisms for inter-agency coordination. Scholars have argued that even where strong legal frameworks exist, treaty implementation may remain limited if institutions lack the administrative capacity required to operationalise international obligations (Hillebrecht, 2021; Linos & Pegram, 2022). This perspective highlights the importance of examining not only the legal dimensions of treaty domestication but also the administrative and institutional processes through which treaty commitments are translated into practical governance measures.

The findings of this study support this perspective by demonstrating that treaty domestication in Uganda involves multiple institutions operating across different areas of government. Each institution contributes to a specific stage of the domestication process, ranging from treaty negotiation and legal review to legislative incorporation and sectoral implementation. Where coordination among these institutions is limited, the translation of treaty commitments into domestic legislation and policy frameworks may proceed more slowly or inconsistently. These institutional dynamics illustrate the broader governance challenges associated with implementing international legal commitments within complex administrative systems.

An important contribution of this study lies in highlighting the institutional processes through which treaty obligations move from international negotiation to domestic implementation. While previous scholarship on international human rights law has often focused primarily on the legal frameworks governing treaty ratification and constitutional incorporation, relatively limited empirical research has examined how institutional actors interact during the domestication process within specific national contexts. By analysing the roles of different institutions involved in treaty governance in Uganda, this study provides insight into the practical mechanisms through which international legal commitments are operationalised within domestic legal systems.

The analysis of these institutional dynamics contributes to broader debates in international law regarding the relationship between international legal norms and domestic governance structures. International human rights treaties establish normative standards that states agree to uphold, but the practical realisation of these standards depends on the institutional arrangements through which governments interpret and implement treaty obligations. As scholars have increasingly recognised, the interaction between international legal regimes and domestic

governance institutions plays a crucial role in determining whether international commitments produce meaningful outcomes at the national level (Simmons, 2019; Hathaway & Shapiro, 2022).

The findings suggest that Uganda's institutional framework provides a structured foundation for implementing international human rights treaties. The presence of institutions responsible for treaty negotiation, legal review, legislative incorporation, policy implementation, and oversight reflects a governance system capable of engaging with international legal obligations. At the same time, the effectiveness of this framework depends significantly on the capacity of these institutions to coordinate their activities, translate treaty provisions into domestic legislation, and ensure that policy reforms reflect international legal standards.

### **5.2.3 Alignment between Domestic Law and International Human Rights Treaties**

The findings of this study indicate that Uganda has made considerable efforts to align its domestic legal framework with international human rights treaties through constitutional provisions, statutory legislation, and policy reforms. These efforts reflect a broader commitment to integrating international human rights standards within national governance structures. However, the degree of alignment between domestic law and international human rights obligations varies across different legal and policy areas. While several fundamental rights recognised in international treaties are reflected in Uganda's constitutional framework, the practical implementation of treaty obligations often depends on the adoption of sector-specific legislation and the capacity of institutions responsible for enforcing those laws. This observation corresponds with broader scholarly debates on the relationship between international human rights law and domestic legal systems, which emphasise that the effectiveness of international treaties depends largely on the extent to which their provisions are incorporated into domestic legal

frameworks and supported by institutional mechanisms capable of enforcing those rights (Simmons, 2019; Hillebrecht, 2021).

Uganda's 1995 Constitution plays a central role in establishing the normative foundation for the protection of human rights within the domestic legal system. The Constitution contains a comprehensive Bill of Rights, which recognises a range of civil, political, economic, and social rights that correspond with those contained in major international human rights instruments. Through these constitutional provisions, the Ugandan legal system embeds key principles of international human rights law within the national legal order. Scholars examining the interaction between constitutional law and international human rights norms have noted that constitutional incorporation of human rights principles can facilitate the internalisation of international standards by embedding them within domestic legal frameworks (Langford, 2018; Linos & Pegram, 2022). In this respect, constitutional recognition of rights provides an important legal foundation through which international human rights obligations can be interpreted and applied within domestic legal systems.

In Uganda's case, several constitutional guarantees mirror rights contained in international human rights treaties to which the state is a party. Constitutional provisions relating to equality before the law, protection of human dignity, freedom from discrimination, freedom of expression, and the right to education reflect obligations contained in international instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The inclusion of these rights within the constitutional framework creates opportunities for courts and public institutions to draw upon international human rights standards when interpreting constitutional provisions. In this way,

constitutional law serves as a mechanism through which international human rights norms may influence the development of domestic jurisprudence and governance practices.

The alignment between constitutional rights and international human rights obligations has also been recognised by international monitoring bodies responsible for evaluating state compliance with treaty commitments. In its Concluding Observations on Uganda's periodic report, the United Nations Human Rights Committee acknowledged that Uganda's constitutional framework contains several provisions consistent with the rights protected under the ICCPR (Human Rights Committee, 2023). The Committee noted that constitutional protections relating to civil liberties and procedural rights provide an important legal basis for implementing the Covenant's obligations within the domestic legal system. Similarly, the Committee on Economic, Social and Cultural Rights observed that Uganda's Constitution recognises a number of socio-economic rights that correspond with obligations contained in the ICESCR, including rights relating to education, health, and social welfare (CESCR, 2023). These assessments highlight the importance of constitutional frameworks in establishing the legal foundation for aligning domestic law with international human rights standards.

While constitutional provisions provide a normative framework for the protection of human rights, the findings of this study indicate that achieving full alignment between domestic legislation and international treaty obligations remains an ongoing process. Constitutional guarantees typically articulate broad principles concerning the protection of fundamental rights, but many treaty obligations require detailed legislative and administrative measures before they can be effectively implemented. In practice, the operationalisation of constitutional rights often

depends on the enactment of statutory legislation that specifies how these rights are to be protected and enforced within particular policy sectors.

For example, the implementation of rights relating to labour protection, gender equality, children's welfare, and social security frequently depends on sector-specific legislation enacted by Parliament. Laws governing employment conditions, gender-based violence, child protection, and access to social services are often introduced to give practical effect to international treaty commitments in these areas. Through such legislation, treaty obligations are translated into enforceable legal rules that guide the actions of government institutions and private actors within domestic governance systems. This process illustrates the broader pattern identified in international human rights scholarship, where constitutional recognition of rights is accompanied by incremental legislative reforms aimed at operationalising those rights within domestic legal and administrative frameworks (Verdier & Voeten, 2020; Hathaway & Shapiro, 2022).

The gradual nature of legislative alignment reflects the complex relationship between international legal commitments and domestic lawmaking processes. Because treaty obligations frequently require changes to existing legal frameworks, implementing these commitments often involves legislative reforms that unfold over extended periods of time. In many cases, governments must assess the compatibility of treaty provisions with existing laws, develop new legislative frameworks where gaps exist, and establish administrative mechanisms capable of enforcing these rights. This process may require consultation among multiple government institutions, including ministries responsible for justice, labour, gender, education, and social development.

Scholars examining the interaction between international law and domestic legal systems have emphasised that legislative alignment is rarely immediate but instead occurs through gradual

processes of legal reform and institutional adaptation (Simmons, 2019; Hillebrecht, 2021). In dualist legal systems such as Uganda's, this process is particularly significant because treaty obligations must be incorporated into domestic law before they can be applied by national courts and administrative authorities. As a result, the alignment between domestic legislation and international treaty obligations often evolves over time as governments adopt new laws and policy frameworks aimed at fulfilling their international commitments.

This dynamic relationship between constitutional guarantees, statutory legislation, and international treaty obligations illustrates the multi-layered nature of human rights protection within domestic legal systems. While constitutional provisions establish broad normative commitments to human rights protection, the realisation of these rights depends on the development of legislative and institutional mechanisms capable of translating constitutional principles into practical legal protections. Understanding this relationship between constitutional law, statutory legislation, and international treaty obligations is therefore essential for evaluating the extent to which domestic legal systems align with international human rights standards.

International monitoring reports further illustrates the evolving nature of legal alignment between domestic law and international human rights treaties in Uganda. Treaty monitoring bodies frequently evaluate the extent to which states have incorporated international human rights standards into their domestic legal frameworks, thereby providing an external assessment of the progress achieved in aligning national legislation with treaty obligations. These assessments often highlight both areas of progress and areas where additional legislative or policy reforms are necessary to ensure full compliance with international commitments. In the case of Uganda, monitoring bodies have acknowledged the existence of legislative and policy measures aimed at

strengthening the protection of human rights while also emphasising the need for continued reforms to address persistent gaps in implementation.

The Committee on the Elimination of Discrimination against Women (CEDAW Committee), in its *Concluding Observations on Uganda's Eighth Periodic Report*, recognised legislative reforms aimed at promoting gender equality and addressing gender-based discrimination. These reforms include the adoption of legal frameworks designed to strengthen the protection of women's rights and promote gender equality in areas such as access to education, employment, and political participation. At the same time, the Committee noted that additional measures would be necessary to address persistent challenges relating to gender-based violence, discriminatory cultural practices, and structural barriers affecting women's participation in economic and public life (CEDAW Committee, 2022). These observations illustrate the dynamic nature of legal alignment, where legislative reforms represent important steps toward fulfilling treaty obligations but may require further policy and institutional measures to ensure their effective implementation.

Similarly, the Committee on the Rights of the Child (CRC Committee) highlighted the importance of strengthening the implementation of children's rights within Uganda's domestic legal framework. In its *Concluding Observations on Uganda's Combined Fifth and Sixth Periodic Reports*, the Committee acknowledged that Uganda has adopted several laws and policy frameworks aimed at protecting children's rights, including legislation addressing issues such as child protection, education, and social welfare. However, the Committee also noted that gaps remain in ensuring the consistent implementation of treaty obligations across different sectors of governance, particularly in areas relating to child protection mechanisms, access to education, and

the allocation of resources necessary to support children's rights programmes (CRC Committee, 2023). These observations demonstrate that while domestic legal frameworks may reflect treaty obligations in principle, effective alignment often depends on the ability of institutions to implement these legal provisions consistently across different policy domains.

Regional monitoring mechanisms have reached similar conclusions regarding the alignment of domestic law with international human rights standards. The African Commission on Human and Peoples' Rights, in its Concluding Observations on Uganda's periodic report under the African Charter on Human and Peoples' Rights, acknowledged the progress made by Uganda in strengthening legal protections for human rights through constitutional provisions and legislative reforms. At the same time, the Commission emphasised the importance of continued legislative and policy reforms to ensure that domestic laws remain consistent with evolving regional human rights standards (African Commission on Human and Peoples' Rights, 2020). The Commission also highlighted the need for effective implementation mechanisms capable of translating legal commitments into tangible protections for individuals and communities.

These evaluations by international and regional monitoring bodies underscore the importance of continuous legal adaptation in maintaining alignment between domestic law and international human rights treaties. International human rights regimes are dynamic in nature, with treaty bodies frequently issuing interpretive guidance and recommendations designed to clarify the scope of treaty obligations. As a result, states are often required to periodically review and update their domestic legal frameworks to ensure that they remain consistent with evolving interpretations of international human rights standards. Scholars examining the interaction between international law and domestic legal systems have noted that such processes of legal adaptation are a common

feature of treaty implementation, particularly in states where international obligations must be incorporated through legislative reforms (Simmons, 2019; Hillebrecht, 2021).

The alignment between domestic law and international treaties is also influenced by the role of domestic institutions responsible for monitoring and enforcing human rights protections. In Uganda, the Uganda Human Rights Commission (UHRC) plays a significant role in promoting compliance with international human rights standards. Established under the Constitution of Uganda, the Commission functions as an independent oversight institution tasked with investigating human rights violations, monitoring the state of human rights protection, and promoting awareness of human rights norms. Through these functions, the Commission contributes to the broader governance framework within which international human rights obligations are interpreted and applied at the national level.

The Commission frequently references international human rights treaties in its investigations and annual reports, demonstrating how domestic oversight institutions contribute to the internalisation of international norms within national legal systems. For example, the UHRC's annual reports often draw upon provisions contained in international human rights instruments when assessing the performance of government institutions in protecting fundamental rights. By referencing treaty obligations in its monitoring activities, the Commission reinforces the relevance of international human rights standards within domestic legal and policy discussions (Uganda Human Rights Commission, 2022). In this way, oversight institutions serve as important intermediaries between international legal frameworks and domestic governance structures, helping to translate treaty norms into practical accountability mechanisms.

Recent scholarship has emphasised that the relationship between domestic law and international human rights treaties is frequently characterised by a process of progressive legal harmonisation rather than immediate legal transformation. Rather than producing instantaneous changes in domestic legal systems, international treaties often influence national governance through gradual processes of legal reform and institutional adaptation (Hillebrecht, 2021; Linos & Pegram, 2022). Within this process, constitutional provisions, legislative reforms, judicial interpretation, and administrative policies collectively contribute to the gradual alignment of domestic legal frameworks with international human rights norms.

The findings of this study support this perspective by demonstrating that Uganda's legal framework reflects many international human rights principles, particularly through its constitutional provisions and sector-specific legislation. At the same time, the implementation of these principles continues to evolve through ongoing legislative and institutional reforms aimed at strengthening the protection of fundamental rights. In practice, the alignment between domestic law and international treaties is shaped by a combination of legal developments and institutional practices that gradually integrate international norms into national governance systems.

An important contribution of this study lies in highlighting the practical challenges associated with maintaining alignment between domestic law and international treaty obligations. While previous literature has frequently focused on constitutional frameworks and treaty ratification processes, relatively limited research has examined how domestic legal systems continuously adapt to evolving international human rights standards. By analysing the perspectives of institutional actors involved in treaty implementation, this study provides insight into the

dynamic processes through which domestic legal frameworks are periodically reviewed and adjusted to reflect international commitments.

These institutional perspectives illustrate how legal alignment is shaped not only by formal legislative reforms but also by the everyday practices of institutions responsible for interpreting and implementing human rights obligations. Government officials, legal practitioners, and oversight bodies often play an important role in identifying areas where domestic legislation may require reform in order to remain consistent with treaty obligations. Through such processes, international human rights norms gradually become embedded within domestic governance systems.

These findings and documentary evidence indicate that Uganda has achieved a significant degree of alignment between its constitutional framework and international human rights treaties. The incorporation of human rights principles within the Constitution and the adoption of sector-specific legislation aimed at protecting fundamental rights reflect an ongoing effort to harmonise domestic legal frameworks with international standards. At the same time, the process of translating treaty obligations into fully operational domestic legal protections continues to evolve through legislative reforms, institutional strengthening, and engagement with international monitoring mechanisms.

From a broader analytical perspective, Uganda's experience illustrates the complex interaction between international legal norms and domestic governance structures. While international treaties provide normative frameworks for the protection of human rights, their practical effectiveness depends on the capacity of domestic legal systems to incorporate and implement those norms through legislation, institutional practice, and judicial interpretation. The

alignment between domestic law and international human rights treaties therefore represents an ongoing process of legal and institutional adaptation rather than a static condition achieved at a single moment in time.

#### **5.2.4 Implications of Uganda's Status as a State Party**

Uganda's status as a State Party to numerous international and regional human rights treaties carries significant legal, institutional, and governance implications. Ratification of these treaties formally commits the state to uphold internationally recognised human rights standards and to take appropriate legislative, administrative, and judicial measures to ensure their realisation within the domestic legal system. By becoming a party to international human rights instruments, states accept responsibilities that extend beyond their domestic legal orders and enter into a framework of international accountability aimed at promoting the protection of fundamental rights. In this respect, Uganda's participation in the international human rights system reflects the broader understanding that states assume obligations not only toward their own citizens but also toward the international community when they ratify human rights treaties (Simmons, 2019; Hillebrecht, 2021). The findings of this study suggest that Uganda's status as a State Party has influenced the development of domestic legal frameworks, institutional arrangements, and governance practices related to the protection and promotion of human rights.

Within international human rights law, ratification is generally understood as the formal expression of a state's consent to be bound by treaty obligations under international law. Once a state becomes a party to a treaty, it assumes legal obligations that require the adoption of measures aimed at ensuring the effective implementation of the rights recognised in that instrument. These obligations often include the duty to adopt legislative reforms, establish institutional mechanisms

for enforcement, and ensure that administrative and judicial processes are consistent with international human rights standards. Scholars examining the impact of treaty ratification have noted that the legal commitments associated with becoming a state party may influence domestic governance structures by encouraging governments to align national legal frameworks with international human rights norms (Hathaway & Shapiro, 2022; Hillebrecht, 2021). In this regard, treaty ratification can function as a mechanism through which international legal standards shape domestic lawmaking and policy development.

One important implication of treaty ratification concerns the legal obligation to respect, protect, and fulfil human rights as recognised in international law. These obligations form the conceptual framework through which international human rights treaties define the responsibilities of states toward individuals within their jurisdiction. The obligation to respect requires states to refrain from actions that directly interfere with the enjoyment of human rights. The obligation to protect requires states to prevent third parties, including private actors, from violating the rights of individuals. The obligation to fulfil requires states to adopt positive measures such as legislation, policy reforms, and institutional programmes to facilitate the realisation of rights (Alston & Goodman, 2019; De Schutter, 2020). Together, these obligations establish a comprehensive framework for state responsibility in the promotion and protection of human rights.

Uganda's ratification of major human rights treaties including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC) therefore establishes a legal framework through which the state is expected to promote and safeguard

fundamental rights within its domestic legal order. These treaties require states not only to recognise rights in principle but also to adopt legislative, administrative, and judicial measures capable of ensuring their practical realisation. As scholars have noted, the process of implementing these obligations often involves the gradual adaptation of domestic legal systems to reflect the normative standards established in international human rights law (Simmons, 2019; Viljoen, 2019).

The findings of this study suggest that participation in the international human rights system has influenced legislative and policy reforms within Uganda. Ratification of international treaties often prompts governments to review existing laws and policies in order to ensure that they conform to treaty obligations. This dynamic has been widely observed in comparative studies examining the domestic effects of human rights treaties, where international commitments frequently act as catalysts for legal reform and institutional development (Hillebrecht, 2021; Linos & Pegram, 2022). Governments may undertake legislative reforms to address gaps identified during the ratification process or in response to recommendations issued by international monitoring bodies. Through such reforms, treaty obligations become integrated into domestic legal frameworks and governance practices.

In Uganda, legislative initiatives addressing issues such as gender equality, child protection, and labour rights have frequently been linked to obligations arising from international human rights treaties. For example, reforms addressing gender-based discrimination and violence have been influenced by Uganda's commitments under the Convention on the Elimination of All Forms of Discrimination against Women. Similarly, policy frameworks addressing children's welfare and protection reflect obligations arising from the Convention on the Rights of the Child.

These examples illustrate how treaty commitments may influence domestic governance priorities by encouraging states to adopt legal and policy measures that align with international human rights standards.

Although the process of legal harmonisation remains ongoing, the study's findings suggest that treaty ratification has contributed to shaping the evolution of Uganda's domestic legal framework. The interaction between international legal obligations and domestic lawmaking processes has encouraged the gradual development of legislative frameworks aimed at protecting fundamental rights and addressing social challenges affecting vulnerable groups. In this regard, international human rights treaties function not only as legal instruments but also as normative reference points guiding the development of domestic policies and institutional reforms.

International monitoring mechanisms also play an important role in shaping the implications of Uganda's status as a State Party. States that ratify human rights treaties are required to submit periodic reports to treaty monitoring bodies describing the measures they have taken to implement treaty obligations. These reporting procedures create a structured process through which international institutions evaluate the extent to which states are complying with their treaty commitments. Treaty monitoring bodies examine these reports, engage in dialogue with government representatives, and issue concluding observations that identify areas where further reforms may be necessary to ensure compliance with treaty obligations.

These reporting mechanisms contribute to strengthening accountability within the international human rights system by encouraging states to regularly assess their domestic legal frameworks and policy measures in light of treaty obligations. Scholars have noted that such monitoring processes often influence domestic governance by providing governments with

guidance on how international standards should be implemented within national legal systems (Simmons, 2019; Hillebrecht, 2021). Recommendations issued by treaty bodies frequently address legislative gaps, institutional weaknesses, and policy challenges that may affect the effective protection of human rights.

For example, the Human Rights Committee, in its *Concluding Observations on Uganda's periodic report*, welcomed several legislative and institutional reforms undertaken by the state while also highlighting areas requiring further attention, including issues related to freedom of expression, conditions of detention, and access to justice (Human Rights Committee, 2023). The Committee emphasised the importance of ensuring that domestic laws governing these areas remain consistent with the protections guaranteed under the ICCPR. Such observations illustrate how international monitoring mechanisms contribute to shaping national human rights governance by identifying areas where additional reforms may be necessary.

Similarly, the Committee on Economic, Social and Cultural Rights emphasised the importance of strengthening legislative and policy measures aimed at ensuring the progressive realisation of socio-economic rights within Uganda. In its evaluation of Uganda's implementation of the ICESCR, the Committee noted that while the government had adopted several policy frameworks addressing social development and poverty reduction, further steps would be necessary to ensure that these initiatives are fully aligned with the obligations arising from the Covenant (CESCR, 2023). These recommendations highlight the role of treaty monitoring bodies in encouraging states to adopt comprehensive strategies for implementing socio-economic rights, including measures relating to social protection, health services, and access to education.

Such monitoring processes illustrate how Uganda's status as a State Party to international human rights treaties places the country within an ongoing framework of international review and dialogue. Through periodic reporting and engagement with treaty monitoring bodies, states are encouraged to continuously evaluate their domestic legal frameworks and governance practices in order to ensure that they remain consistent with evolving international human rights standards. These processes contribute to shaping national human rights governance by promoting legal reforms, strengthening institutional accountability, and encouraging policy initiatives aimed at improving the protection of fundamental rights.

Regional human rights mechanisms also contribute to shaping the implications of Uganda's treaty commitments within the broader international human rights system. In addition to obligations arising from United Nations treaties, Uganda is also a State Party to regional instruments such as the African Charter on Human and Peoples' Rights, which establishes additional legal and institutional frameworks for the promotion and protection of human rights across the African continent. The African Commission on Human and Peoples' Rights plays a central role in monitoring the implementation of the Charter through periodic reporting procedures, thematic investigations, and engagement with member states. Through these mechanisms, the Commission evaluates the extent to which national legal systems and governance structures comply with regional human rights standards.

In its evaluation of Uganda's periodic reports submitted under the African Charter, the Commission has recognised the country's progress in strengthening constitutional and institutional frameworks for human rights protection. At the same time, the Commission has highlighted persistent challenges relating to issues such as access to justice, protection of vulnerable groups,

and effective enforcement of human rights standards (African Commission on Human and Peoples' Rights, 2020). These observations illustrate the dual role played by regional monitoring bodies in acknowledging legal and institutional progress while simultaneously identifying areas where further reforms may be necessary. In this regard, regional monitoring processes complement the work of United Nations treaty bodies by reinforcing normative expectations regarding the protection of human rights and encouraging states to strengthen their domestic legal and institutional frameworks.

Regional human rights mechanisms are particularly significant in the African context because they provide an additional layer of oversight and accountability within the international human rights system. Scholars have noted that regional monitoring bodies often play an important role in contextualising international human rights norms within regional political, legal, and socio-economic environments (Viljoen, 2019; Murray & Long, 2021). By engaging directly with national governments and regional stakeholders, institutions such as the African Commission contribute to shaping human rights governance in ways that reflect both global norms and regional realities. Uganda's engagement with these regional monitoring processes therefore forms an important part of its broader participation in the international human rights regime.

Another important implication of treaty ratification concerns the strengthening of domestic human rights institutions, which play a key role in translating international human rights norms into national governance practices. The findings of this study indicate that institutions such as the Uganda Human Rights Commission (UHRC) contribute significantly to the operationalisation of international human rights standards within the domestic legal system. National human rights institutions are often tasked with monitoring state compliance with human rights obligations,

investigating alleged violations, and promoting awareness of human rights norms among public institutions and the broader population.

The Uganda Human Rights Commission's work illustrates how international treaty commitments can influence the institutional practices of domestic oversight bodies. Established under the Constitution of Uganda, the Commission operates as an independent body mandated to promote and protect human rights within the country. In fulfilling this mandate, the Commission frequently references international human rights treaties when assessing government policies and investigating alleged human rights violations. The Commission's annual reports regularly draw upon provisions contained in international human rights instruments when evaluating the performance of public institutions in protecting fundamental rights (Uganda Human Rights Commission, 2022). Through these activities, the UHRC contributes to integrating international human rights norms into domestic legal and administrative practices.

The work of national human rights institutions has been widely recognised in international scholarship as an important mechanism for bridging the gap between international human rights law and domestic governance. Scholars have emphasised that such institutions serve as intermediaries between international legal standards and national legal systems by monitoring compliance with treaty obligations, providing recommendations to government authorities, and promoting public awareness of human rights norms (Pegram, 2020; Murray & De Beco, 2021). In this capacity, institutions such as the Uganda Human Rights Commission help ensure that international treaty commitments remain relevant within domestic legal and policy debates.

The implications of Uganda's status as a State Party also extend to the development of human rights discourse within civil society and the legal profession. International human rights

treaties often serve as important normative reference points for civil society organisations, lawyers, and human rights advocates seeking to promote accountability and legal reform. These actors frequently draw upon international legal standards when engaging with government institutions, advocating for legislative reforms, and raising public awareness about human rights issues.

Recent scholarship has highlighted the role of international human rights treaties in empowering domestic actors by providing normative frameworks that support advocacy efforts aimed at improving governance and protecting individual rights (Simmons, 2019; Hafner-Burton, 2020). When civil society organisations invoke international treaty obligations in their advocacy activities, they contribute to strengthening the domestic relevance of international human rights law. In Uganda, civil society organisations frequently reference international treaty commitments when engaging with government institutions on issues such as gender equality, access to education, protection of children's rights, and the prevention of gender-based violence. Through these advocacy efforts, international human rights treaties become integrated into broader national discussions concerning governance and social justice.

At the same time, the engagement of civil society actors with international human rights frameworks reflects the broader process through which international norms influence domestic political and legal debates. Scholars have argued that international human rights treaties often function as normative resources that enable domestic actors to frame governance challenges within a global human rights discourse (Simmons, 2019; Hillebrecht, 2021). This interaction between international legal norms and domestic advocacy initiatives contributes to the gradual internalisation of human rights principles within national political and legal systems.

Despite these positive developments, the findings of this study indicate that Uganda's status as a State Party also brings practical challenges relating to treaty implementation and compliance. Participation in international human rights regimes requires states to maintain effective reporting mechanisms, coordinate institutional responses to treaty body recommendations, and ensure that domestic legislation remains consistent with evolving international standards. These obligations require sustained administrative capacity, inter-agency coordination, and political commitment in order to ensure that treaty commitments are effectively translated into domestic governance practices.

As noted in recent scholarship, the effectiveness of treaty participation often depends on the ability of domestic institutions to integrate international norms into national governance frameworks (Linos & Pegram, 2022; Hillebrecht, 2021). In many states, including those operating within dualist legal systems, treaty implementation may be complicated by institutional fragmentation, resource limitations, and competing policy priorities. Where institutional capacity is limited or coordination mechanisms are weak, the practical impact of treaty obligations may be constrained despite the existence of formal legal commitments.

An important contribution of this study lies in highlighting how Uganda's participation in international human rights regimes influences domestic governance processes. While previous scholarship has examined the legal obligations associated with treaty ratification, relatively limited attention has been given to the institutional processes through which states respond to treaty monitoring mechanisms and integrate international recommendations into domestic policy frameworks. By analysing the perspectives of institutional actors involved in treaty governance,

this study provides new insights into how international human rights commitments shape policy debates, legislative reforms, and institutional practices within the Ugandan context.

The findings therefore contribute to a deeper understanding of the interaction between international legal norms and domestic governance structures. Rather than viewing treaty ratification as a purely legal event, the study demonstrates that participation in international human rights regimes generates a range of institutional processes that influence national policy development, legislative reform, and administrative practices. Through these processes, international human rights obligations become integrated into the broader governance framework of the state.

In conclusion, Uganda's status as a State Party to international human rights treaties has significant implications for domestic legal frameworks, institutional governance, and human rights advocacy. Treaty ratification establishes binding legal obligations and introduces mechanisms of international monitoring that encourage states to strengthen their domestic human rights protections. At the same time, the effectiveness of these commitments ultimately depends on the capacity of domestic institutions to translate international norms into practical legal and policy measures. Understanding these dynamics is therefore essential for assessing the broader impact of international human rights treaties on governance and human rights protection within Uganda.

### **5.2.5 Challenges Affecting Ratification and Domestication of International Human Rights Treaties**

The findings of this study reveal that although Uganda has established a formal legal and institutional framework for ratifying and domesticating international human rights treaties, several

challenges continue to affect the effectiveness of these processes. These challenges are not unique to Uganda but reflect broader structural and institutional dynamics observed in many states operating within dualist legal systems. In such systems, international treaties require additional legislative or administrative measures before they can acquire direct legal effect within domestic law. As a result, the practical implementation of treaty commitments often depends on complex interactions between political institutions, administrative structures, and legal frameworks. The interpretation of the findings therefore highlights how political, institutional, and administrative factors interact to influence the translation of international human rights commitments into domestic legal practice.

Present scholarship on treaty implementation has increasingly emphasised that the effectiveness of international human rights treaties cannot be understood solely in terms of legal ratification or constitutional recognition. Rather, the domestic impact of treaty obligations is shaped by the broader political and institutional context within which states operate (Simmons, 2024; Klabbers, 2021). In many jurisdictions, including those operating under dualist legal traditions, the translation of international commitments into domestic law requires sustained political engagement, legislative action, and institutional coordination. Consequently, even where formal legal frameworks for treaty ratification exist, the practical realisation of treaty obligations may be affected by governance dynamics that influence how international commitments are prioritised within national policy agendas.

One of the most significant challenges identified in the study concerns the issue of political will in advancing treaty domestication and implementation. While Uganda has ratified numerous international human rights treaties, the pace at which these treaties are domesticated into national

legislation often depends on the political priorities of the government and the broader policy environment within which legislative reforms occur. The findings suggest that in some instances treaty commitments may not receive sustained legislative attention unless they align closely with national political agendas or policy priorities. This dynamic illustrates how the domestication of international legal obligations may be influenced by political calculations regarding resource allocation, policy relevance, and the perceived urgency of particular reforms.

Scholars examining treaty compliance have frequently highlighted the role of domestic political incentives in shaping the implementation of international human rights obligations. Research in this field suggests that governments may be more likely to prioritise treaty domestication when international commitments align with domestic political objectives or when there is significant pressure from civil society, international organisations, or domestic constituencies advocating for reform (Simmons, 2019; Hafner-Burton, 2020). Conversely, treaty obligations that are perceived as politically sensitive or that require substantial institutional reforms may be implemented more slowly. In this context, the effectiveness of treaty domestication is shaped not only by legal frameworks but also by the political environment within which legislative and institutional decisions are made.

The role of political will in treaty implementation is particularly relevant in contexts where governments must balance international commitments with competing domestic policy priorities. Legislative agendas are often shaped by multiple factors, including economic considerations, political stability, and the availability of administrative resources necessary to implement policy reforms. As a result, even where governments have formally committed themselves to international human rights obligations, the process of translating those commitments into domestic

law may be influenced by broader political considerations affecting legislative priorities. Scholars have therefore argued that the effectiveness of international human rights treaties often depends on the extent to which domestic political actors perceive treaty obligations as consistent with national policy goals (Williams, 2021; Linos & Pegram, 2022).

A related challenge concerns the timing of parliamentary involvement in the treaty governance process. The findings of this study indicate that Parliament often becomes actively engaged during the domestication stage rather than during earlier stages of treaty negotiation and signature. Although this pattern reflects the constitutional allocation of responsibilities in matters of foreign affairs where the executive branch typically plays a leading role in treaty negotiation it may limit the extent to which legislators influence the substance of treaty commitments before they are adopted. In practice, this institutional arrangement means that parliamentary scrutiny often occurs after treaty texts have already been negotiated and signed at the international level.

This pattern reflects a broader institutional dynamic observed in many states where the executive branch exercises primary authority in conducting foreign relations while legislative bodies become involved during the ratification or domestication stages of treaty governance. Scholars have noted that executive dominance in treaty-making is common in many jurisdictions, particularly in areas involving diplomacy and foreign policy (Bradley, 2020; Klabbers, 2021). Because treaty negotiations often occur within international diplomatic forums, legislative institutions may have limited opportunities to influence the content of treaty commitments during the negotiation phase.

The limited involvement of legislatures in early treaty negotiations has been identified in comparative studies as a factor that may affect the level of democratic oversight in treaty-making

processes. When legislative bodies participate primarily at the domestication stage, their role often focuses on reviewing the domestic legal implications of treaty obligations rather than shaping the substance of the treaty itself. While this arrangement allows governments to conduct international negotiations efficiently, it may reduce opportunities for broader democratic debate regarding the policy implications of international agreements (Bradley, 2020). In the Ugandan context, the findings suggest that earlier parliamentary engagement in treaty governance could potentially strengthen legislative oversight and enhance transparency in the treaty-making process.

Another challenge identified in the findings relates to institutional coordination among government agencies responsible for treaty implementation. The domestication of international human rights treaties often requires the involvement of multiple institutions, including ministries responsible for legal affairs, foreign affairs, gender and social development, labour, education, health, and other policy sectors. Because many human rights obligations intersect with several areas of governance, effective treaty implementation requires coordination among institutions operating under different administrative mandates and policy priorities.

The findings suggest that coordination among these institutions may sometimes be fragmented, particularly when treaty obligations intersect with several policy domains. Ministries responsible for implementing treaty commitments may operate within their own administrative structures without sustained coordination with other institutions involved in the domestication process. This fragmentation can slow the process through which international obligations are translated into comprehensive legislative and policy frameworks capable of addressing the full scope of treaty commitments.

Similar challenges have been identified in studies of treaty implementation in other jurisdictions, where overlapping institutional mandates and administrative fragmentation have been found to affect the efficiency of domestication processes. Scholars examining international governance have noted that the implementation of international agreements often depends on the ability of domestic institutions to coordinate their activities and share information across different sectors of government (Linos, 2022; Dixon, 2023). Where coordination mechanisms are weak or poorly institutionalised, governments may encounter difficulties translating treaty commitments into coherent domestic policies.

Institutional coordination challenges may also arise when responsibilities for implementing treaty obligations are distributed across multiple levels of government or administrative agencies. In such situations, ensuring that policy measures adopted by one institution are consistent with broader treaty commitments may require structured coordination mechanisms capable of facilitating communication among relevant institutions. Scholars have therefore emphasised the importance of developing inter-agency coordination frameworks that enable governments to manage the complex administrative processes associated with implementing international legal commitments (Hillebrecht, 2021).

The findings of this study illustrate how such coordination challenges can affect the practical implementation of international human rights treaties within domestic legal systems. While Uganda has established institutional frameworks for treaty ratification and domestication, the effectiveness of these frameworks ultimately depends on the ability of government institutions to work collaboratively in translating international obligations into domestic legislative and policy measures.

The study also identifies resource and technical capacity limitations as a challenge affecting the implementation of international human rights treaties within Uganda's domestic governance framework. Implementing international human rights obligations often requires specialised legal expertise, institutional capacity, and administrative resources capable of supporting the complex processes associated with treaty domestication and compliance. Government institutions responsible for treaty reporting, legislative drafting, and policy implementation must often coordinate across multiple sectors while simultaneously responding to evolving international legal standards. These responsibilities place significant demands on administrative systems that may already be managing multiple governance priorities.

In practice, institutions tasked with implementing treaty obligations may face constraints related to staffing levels, technical expertise, financial resources, and access to reliable data necessary for monitoring compliance with human rights standards. For example, the preparation of periodic reports to international treaty bodies requires the collection and analysis of data from multiple government agencies responsible for implementing different aspects of treaty obligations. This process often involves compiling legislative information, policy developments, judicial decisions, and statistical indicators relating to the protection of human rights. Where administrative systems lack the technical infrastructure or institutional coordination necessary to gather and analyse such information, the reporting process may become delayed or incomplete.

These challenges are not unique to Uganda but reflect broader patterns observed in the implementation of international human rights treaties across many states. Scholars examining treaty compliance have increasingly emphasised the importance of institutional capacity as a key determinant of whether international legal obligations are effectively translated into domestic

governance practices. While legal ratification establishes the formal basis for treaty obligations, the ability of governments to implement these obligations depends significantly on the administrative and technical resources available to institutions responsible for their execution (Hillebrecht, 2021; McCorquodale, 2022). Where institutions lack sufficient expertise or resources, the practical realisation of treaty commitments may be constrained even when the legal framework for implementation exists.

Another challenge identified in the findings relates to the complexity of harmonising domestic legislation with evolving international human rights standards. International human rights law is not static but continues to develop through the interpretive work of treaty bodies, the adoption of general comments, and evolving jurisprudence emerging from international and regional human rights institutions. These interpretive developments clarify the scope and meaning of treaty obligations and often introduce new expectations regarding how states should implement human rights commitments within their domestic legal systems.

Ensuring that domestic legislation remains aligned with these evolving standards requires continuous legal review and periodic legislative reform. In many cases, governments must assess whether existing laws adequately reflect updated interpretations of treaty provisions or whether new legislative frameworks are required to address emerging human rights concerns. The findings of this study suggest that maintaining such alignment can be difficult in practice, particularly where legislative processes are lengthy or where competing policy priorities influence the pace of legal reform. Legislative reforms may require consultation among multiple institutions, parliamentary debate, and the allocation of resources necessary to implement new regulatory frameworks.

Scholars examining the interaction between international law and domestic legal systems have noted that this process of legal harmonisation often occurs gradually rather than through immediate legislative transformation. International human rights treaties establish normative frameworks that guide the development of domestic legal systems, but the process of translating these norms into national legislation typically unfolds over extended periods of time (Simmons, 2019; Bradley, 2021). This gradual process reflects the need to adapt international legal principles to specific national legal and institutional contexts while ensuring that legislative reforms remain consistent with constitutional frameworks and governance structures.

International monitoring reports further supports these findings regarding the challenges associated with treaty implementation. International treaty bodies regularly evaluate the extent to which states have implemented treaty obligations within their domestic legal systems and often identify areas where additional legislative or institutional measures are necessary. For example, the Human Rights Committee, in its concluding observations on Uganda's periodic report, highlighted several areas where further legislative and institutional reforms were required to strengthen the protection of civil and political rights. These included issues relating to freedom of expression, access to justice, conditions of detention, and the protection of fundamental liberties within the criminal justice system (Human Rights Committee, 2023).

Similarly, the Committee on Economic, Social and Cultural Rights emphasised the importance of strengthening legislative and policy measures aimed at ensuring the effective realisation of socio-economic rights in Uganda. In its evaluation of Uganda's implementation of the International Covenant on Economic, Social and Cultural Rights, the Committee noted that while the country had adopted several policy frameworks addressing social development and

poverty reduction, additional legislative reforms and institutional measures would be necessary to ensure the full realisation of socio-economic rights (CESCR, 2023). These recommendations illustrate the ongoing nature of the process through which domestic legal systems adapt to evolving international human rights standards.

Regional monitoring mechanisms have also identified institutional capacity and coordination challenges affecting the implementation of human rights obligations within Uganda. The African Commission on Human and Peoples' Rights, in its review of Uganda's periodic reports under the African Charter, acknowledged the country's progress in strengthening constitutional protections and institutional frameworks for human rights while emphasising the need for improved coordination among institutions responsible for implementing human rights obligations (African Commission on Human and Peoples' Rights, 2020). These observations highlight how regional human rights mechanisms complement global monitoring processes by identifying institutional challenges affecting the implementation of human rights commitments within national contexts.

Despite these challenges, the findings also indicate that Uganda's engagement with international human rights regimes has contributed to gradual improvements in domestic legal frameworks and institutional practices. Participation in international human rights systems introduces mechanisms of periodic monitoring, international dialogue, and normative guidance that encourage states to review and strengthen their domestic legal frameworks. Through processes such as treaty reporting, engagement with monitoring bodies, and responses to concluding observations, governments are often prompted to assess whether existing laws and policies adequately reflect their international obligations.

In this sense, the challenges identified in the study should not be understood solely as obstacles to treaty implementation but also as indicators of the complex institutional processes through which international human rights norms are gradually integrated into domestic legal systems. International monitoring mechanisms, civil society advocacy, and institutional reforms can collectively contribute to strengthening domestic governance frameworks for the protection of human rights over time. Scholars have observed that the influence of international human rights treaties often emerges through incremental processes of legal and institutional change rather than immediate transformation of domestic legal systems (Simmons, 2019; Hafner-Burton, 2020).

From an analytical perspective, the Ugandan experience reflects broader debates within international human rights law concerning the gap between treaty ratification and effective implementation. While international treaties establish normative frameworks for human rights protection, their practical impact ultimately depends on domestic political commitment, institutional capacity, and legislative processes capable of translating international norms into enforceable legal protections. This gap between international commitment and domestic implementation has been widely documented in international human rights scholarship, which emphasises the importance of domestic institutions in determining whether treaty obligations produce tangible improvements in human rights protection (Hillebrecht, 2021; Linos & Pegram, 2022).

Understanding these dynamics is therefore essential for evaluating the effectiveness of international human rights treaties and for identifying institutional reforms that may strengthen their implementation. By examining the interaction between political priorities, institutional capacity, legislative processes, and international monitoring mechanisms, the findings of this study

contribute to a more comprehensive understanding of how international human rights commitments are translated into domestic governance practices within the Ugandan context.

### **5.3 Contribution of the Study**

This study contributes to the existing body of scholarship on international human rights law by providing a detailed examination of the legal and institutional processes that shape the ratification and domestication of international human rights treaties in Uganda. While the international human rights regime has generated extensive scholarly literature examining the normative obligations of states and the global patterns of treaty ratification, comparatively fewer studies have focused on the institutional mechanisms through which treaty commitments are translated into domestic legal practice within specific national contexts. By analysing Uganda's experience, this study provides both empirical and analytical insights into how international human rights norms interact with domestic governance structures in a dualist constitutional system.

The first contribution of this study lies in its empirical and institutional analysis of the processes through which international human rights treaties are ratified and domesticated within a national legal system. While existing scholarship has largely focused on global patterns of treaty compliance or the normative implications of international legal commitments, relatively limited attention has been given to the practical, institutional pathways through which treaty obligations are translated into domestic law and policy (Simmons, 2019; Hillebrecht, 2021). By drawing on qualitative interviews with key institutional actors including government officials, legal practitioners, and representatives of civil society organisations this study provides a grounded account of how treaty commitments move from international negotiation to domestic implementation. The findings illuminate the roles played by critical state institutions such as the

Ministry of Foreign Affairs in coordinating treaty engagement, the Office of the Attorney General in legal review and interpretation, Parliament in legislative approval and oversight, and sectoral ministries in policy implementation. This institutional mapping responds to recent calls in international human rights scholarship for more context-specific analyses of how domestic governance structures shape treaty effectiveness (Hafner-Burton, 2020; De Schutter, 2023). Documenting these inter-institutional dynamics and their practical implications, the study advances a more nuanced understanding of the operationalisation of international legal commitments within domestic governance systems, particularly in dualist contexts where formal ratification does not automatically translate into enforceable legal norms (Klabbers, 2021).

A second important contribution of this study lies in its examination of the relationship between constitutional frameworks and international human rights obligations within a dualist legal system. The findings demonstrate that Uganda's constitutional framework plays a central role in shaping the domestic implementation of international human rights treaties by providing a normative foundation through the incorporation of fundamental rights consistent with international standards. However, the dualist character of the legal system means that ratified treaties do not automatically acquire direct legal effect and often require legislative incorporation before they can be enforced by domestic courts. This dual dynamic contributes to ongoing scholarly debates on how constitutional structures mediate the interaction between international and domestic law (De Schutter, 2023). By illustrating how constitutional guarantees both facilitate and constrain the domestic application of treaty obligations, the study advances understanding of how dualist systems internalise international norms through a combination of constitutional interpretation and legislative action (Verdier & Voeten, 2020).

A third contribution of the study engages with longstanding debates on how international human rights treaties are shaping domestic governance and legal reform. While some scholars argue that treaty ratification leads to improved human rights outcomes, others contend that it may serve primarily symbolic or reputational purposes without substantial domestic impact (Simmons, 2019; Hafner-Burton, 2020). The findings of this study demonstrate that the influence of international human rights treaties in Uganda extends beyond formal ratification and is mediated by a range of domestic factors, including legislative processes, institutional coordination, administrative capacity, and political priorities. In situating these dynamics within the Ugandan context, the study provides a more nuanced and context-sensitive account of treaty effectiveness, reinforcing the view that ratification should be understood as part of a broader process of legal, institutional, and political transformation rather than as a singular legal act.

Another contribution of the study lies in its methodological approach, which adopts a triangulated research design combining qualitative interviews with documentary analysis. By integrating multiple sources of evidence including constitutional provisions, statutory legislation, parliamentary debates, treaty body concluding observations, and regional human rights monitoring reports, the study captures both the formal legal structures governing treaty ratification and the practical experiences of institutional actors involved in the domestication process. This approach responds to increasing calls within international law scholarship for empirically grounded and interdisciplinary methods in the study of treaty implementation (Linos & Pegram, 2022; Hillebrecht, 2021). The triangulation of data enhances the credibility and robustness of the findings while providing a more comprehensive understanding of how international legal commitments are operationalised within domestic governance systems. In doing so, the study demonstrates the value

of combining doctrinal legal analysis with qualitative empirical research in advancing scholarship on the domestic implementation of international human rights law.

Importantly, this study identifies areas that have received relatively limited attention within existing scholarship on treaty domestication in Uganda and similar legal systems. While earlier studies have primarily focused on constitutional provisions and formal treaty participation, there has been comparatively less emphasis on the institutional processes and interactions that shape how treaty obligations are translated into domestic legal practice (Chayes & Chayes, 2019; Pegram, 2021). A key contribution of this research lies in its examination of the timing and nature of parliamentary involvement in treaty governance. The findings demonstrate that Parliament tends to engage more actively at the stage of domestication rather than during earlier phases of treaty negotiation and signature, which are largely dominated by executive actors. This institutional sequencing raises important questions regarding the extent of legislative oversight in international lawmaking and reflects broader governance patterns observed in many states where foreign affairs remain primarily within the executive domain (Curtis & McCorquodale, 2022).

In addition, the study advances understanding of human rights governance within African contexts by providing an empirically grounded case study of how an African state engages with international and regional human rights systems. Much of the global literature on treaty compliance has focused on large-scale quantitative analyses or case studies drawn predominantly from Western jurisdictions, often overlooking the institutional realities of African legal and political systems (Engle Merry, 2020; Okafor, 2021). In examining Uganda's experience, this research highlights how constitutional arrangements, administrative structures, and political considerations interact to shape the domestication of international human rights obligations. These

insights contribute to a more context-sensitive understanding of treaty implementation and offer valuable perspectives for analysing similar processes in other African states operating within comparable dualist frameworks and governance structures.

Finally, the study contributes to broader theoretical discussions by demonstrating the dynamic interaction between international legal norms and domestic political and institutional contexts. While international human rights treaties establish normative standards intended to guide state behaviour, their practical effectiveness depends on how they are interpreted, internalised, and enforced within national systems (Búrca, 2021; Goodman & Jinks, 2019). The Ugandan case illustrates that treaty domestication is not a straightforward legal process but rather an evolving negotiation shaped by political priorities, institutional capacity, and governance practices. By documenting these processes, the study supports the view that international law operates through complex domestic channels and that the influence of treaty obligations is mediated by national institutions rather than determined solely by formal ratification. In doing so, the research enriches ongoing debates on the conditions under which international legal norms produce meaningful change in domestic governance and human rights protection.

These contributions enhance understanding of how international human rights treaties operate within domestic legal systems and demonstrate the importance of examining institutional processes when evaluating the effectiveness of treaty implementation. By situating Uganda's experience within broader debates in international human rights law, the study provides both empirical evidence and analytical insights into the complex relationship between international legal commitments and domestic human rights protection.

## 5.4 Recommendations

Although the primary objective of this study was to examine and analyse the legal and institutional dynamics influencing the ratification and domestication of international human rights treaties in Uganda, the findings reveal several areas where improvements may enhance the effectiveness of treaty implementation. These recommendations are derived directly from the empirical findings and analytical discussions presented in earlier chapters of the study. They are therefore presented as reflections arising from the research rather than as prescriptive policy directives. The recommendations focus on strengthening institutional coordination, enhancing legislative oversight, improving legal harmonisation between domestic law and international treaty obligations, and reinforcing institutional capacity for treaty implementation.

The first recommendation concerns the strengthening of institutional coordination in the treaty domestication process. The findings of this study demonstrate that the domestication of international human rights treaties in Uganda involves several institutions, including the Ministry of Foreign Affairs, the Office of the Attorney General, Parliament, sectoral ministries responsible for policy implementation, and oversight bodies such as the Uganda Human Rights Commission. While this multi-institutional framework provides an important foundation for implementing treaty obligations, the study revealed that coordination among these institutions can sometimes be fragmented. In practice, the process of translating treaty commitments into domestic legislation often requires sustained collaboration between institutions responsible for legal drafting, policy development, and administrative implementation. Strengthening institutional coordination mechanisms such as inter-ministerial consultations and structured communication channels may therefore contribute to improving the efficiency and consistency of treaty domestication processes.

Such coordination mechanisms could also facilitate the timely exchange of information between institutions responsible for preparing treaty reports and those responsible for implementing treaty obligations within specific policy sectors.

A second recommendation relates to the timing and scope of parliamentary engagement in treaty governance. The findings of this study suggest that parliamentary involvement in the treaty process often occurs primarily during the domestication stage rather than during the earlier phases of treaty negotiation and signature. Although this institutional arrangement reflects the constitutional allocation of responsibilities in matters of foreign affairs, earlier engagement by Parliament in the treaty-making process may strengthen democratic oversight of international legal commitments. Parliamentary committees responsible for legal and foreign affairs could play a more proactive role in reviewing proposed treaty obligations before ratification. Such engagement may allow legislators to examine the potential legal, financial, and policy implications of international agreements at an earlier stage, thereby promoting greater transparency and accountability in treaty governance.

A key recommendation arising from this study is the adoption of a hybrid approach to treaty incorporation that combines elements of both dualism and monism in Uganda's legal system. The findings demonstrate that a strictly dualist framework, which requires full legislative domestication before treaties can be applied, often contributes to delays and gaps in the implementation of international human rights obligations. A hybrid model would allow certain categories of ratified human rights treaties particularly those concerning fundamental rights to have direct or interpretive effect within the domestic legal system, enabling courts and administrative bodies to rely on them in interpreting and applying national law. This approach is

grounded in the recognition that once a state voluntarily undertakes international obligations, those commitments should meaningfully inform domestic legal processes, especially where they relate to the protection of fundamental rights.

At the same time, the approach preserves the role of Parliament in enacting detailed legislation where necessary, particularly in areas requiring policy specificity or institutional frameworks. This enables courts to interpret domestic law in a manner consistent with ratified treaties, while maintaining legislative oversight over complex areas of implementation, a hybrid model offers a balanced and pragmatic pathway for strengthening the effectiveness of treaty domestication. Such an approach would reduce delays, enhance legal coherence, and ensure that international human rights commitments are more readily translated into practical protections within the domestic legal system.

The study also highlights the importance of strengthening institutional capacity for treaty implementation and reporting. Participation in international human rights regimes requires states to engage regularly with treaty monitoring mechanisms by submitting periodic reports detailing the measures taken to implement treaty obligations. These reporting processes often involve multiple government institutions responsible for collecting data, preparing reports, and responding to recommendations issued by treaty monitoring bodies. The findings suggest that strengthening technical expertise within institutions responsible for treaty reporting may contribute to improving the quality and consistency of Uganda's engagement with international monitoring processes. Enhancing training opportunities for officials involved in treaty implementation and reporting may therefore help strengthen institutional capacity to interpret treaty obligations and respond effectively to recommendations issued by international and regional human rights bodies.

A further recommendation relates to strengthening the role of national human rights institutions and civil society organisations in supporting treaty implementation. Institutions such as the Uganda Human Rights Commission play an important role in promoting awareness of international human rights standards and monitoring compliance with treaty obligations. Civil society organisations also contribute to the domestication process by engaging in advocacy, research, and public education relating to human rights issues. Encouraging collaboration between government institutions, national human rights bodies, and civil society actors may therefore support more inclusive approaches to treaty implementation. Such collaboration can enhance the dissemination of information regarding treaty obligations and promote greater public awareness of human rights protections guaranteed under both domestic and international law.

Finally, the study underscores the importance of maintaining continuous engagement with international and regional human rights monitoring mechanisms. Participation in these mechanisms allows states to benefit from technical guidance and recommendations aimed at strengthening domestic human rights protections. Constructive engagement with treaty monitoring bodies can also provide opportunities for states to share best practices and learn from the experiences of other countries facing similar challenges in implementing international human rights commitments. By actively participating in these monitoring processes and responding to recommendations in a timely manner, Uganda may continue to strengthen its domestic human rights framework and reinforce its commitment to international human rights norms.

It is important to emphasise that these recommendations are intended to complement the analytical findings of the study rather than to serve as comprehensive policy prescriptions. The primary objective of the research has been to analyse the institutional and legal processes that

shape treaty domestication in Uganda. Nevertheless, the observations presented in this section highlight areas where further institutional strengthening and legal reform may contribute to improving the effectiveness of treaty implementation. Such measures may ultimately enhance the integration of international human rights standards within Uganda's domestic legal system and support the broader objective of promoting and protecting human rights at the national level.

### **5.5 Suggestions for Future Research**

While this study has examined the legal and institutional processes shaping the ratification and domestication of international human rights treaties in Uganda, it also reveals several areas where additional scholarly inquiry may deepen understanding of the relationship between international human rights law and domestic governance systems. The findings of this research highlight the complexity of translating international legal obligations into practical domestic implementation. As such, further research is necessary to explore additional dimensions of treaty domestication that extend beyond the scope of the present study. Expanding research in these areas may contribute to a more comprehensive understanding of how international human rights norms influence domestic legal systems and governance practices.

One important area for future research concerns comparative studies of treaty ratification and domestication across different legal systems, particularly within African states that operate under similar constitutional and institutional frameworks. While this study focused specifically on Uganda as a case study, many African countries share similar legal traditions derived from common law systems and dualist constitutional arrangements. Comparative studies examining how other African states incorporate international human rights treaties into their domestic legal systems may provide valuable insights into regional trends and institutional practices. Such

research may also reveal variations in the extent to which international legal commitments influence domestic legislation, judicial interpretation, and governance practices. By comparing Uganda's experience with that of other states within the region, scholars may identify best practices and institutional models that strengthen the effective implementation of international human rights obligations.

A second area for further scholarly exploration relates to the role of domestic courts in interpreting and applying international human rights treaties within national legal systems. Although this study examined the legislative and institutional processes associated with treaty domestication, it did not provide an extensive analysis of judicial engagement with international human rights law. Courts often play a critical role in shaping how international legal principles are interpreted and applied within domestic contexts. In some jurisdictions, judges rely on international human rights treaties to interpret constitutional provisions or to guide the development of domestic jurisprudence. Future research focusing on the jurisprudence of Ugandan courts may therefore provide important insights into how the judiciary contributes to the internalisation of international human rights norms. Such studies may also explore the extent to which judicial actors rely on international law as a source of interpretive authority when addressing constitutional and human rights disputes.

Future research could also investigate the practical impact of international human rights treaties on specific policy sectors and vulnerable groups within society. While this study examined the legal and institutional frameworks governing treaty implementation, additional research may focus on the substantive outcomes of treaty commitments within particular areas of public policy. For instance, scholars may examine how international treaties relating to gender equality,

children's rights, disability rights, labour protection, or health rights influence the development of national policies and service delivery systems. Sector-specific research may provide a clearer understanding of how treaty obligations translate into tangible improvements in the protection of human rights at the national and community levels. Such studies may also help identify areas where legal and policy reforms are needed to strengthen the protection of vulnerable populations.

Another area for future investigation concerns the institutional capacity of government agencies responsible for implementing international human rights obligations. The findings of this study suggest that effective treaty implementation often depends on the coordination and administrative capacity of multiple government institutions. Ministries responsible for foreign affairs, legal affairs, social development, labour, health, and education frequently play central roles in implementing treaty commitments within their respective sectors. Future research examining the organisational structures, administrative resources, and coordination mechanisms within these institutions may provide deeper insights into the institutional factors that influence the effectiveness of treaty implementation. Such research may also explore how capacity-building initiatives, training programs, and institutional reforms contribute to improving the implementation of international human rights obligations within domestic governance systems.

Further research may also focus on the interaction between international human rights monitoring mechanisms and domestic governance processes. States that ratify international human rights treaties are required to engage with treaty monitoring bodies by submitting periodic reports and responding to recommendations issued by those bodies. While these monitoring mechanisms are intended to promote accountability and encourage compliance with international obligations, relatively limited empirical research has examined how governments respond to treaty body

recommendations and integrate them into domestic legal and policy frameworks. Future studies may therefore examine the processes through which government institutions review, interpret, and implement recommendations issued by international and regional human rights monitoring bodies. Such research may provide valuable insights into the effectiveness of international accountability mechanisms and their influence on domestic governance practices.

Another potential area for future research involves the role of civil society organisations and national human rights institutions in supporting treaty implementation and promoting human rights awareness. Civil society actors frequently play an important role in advocating for legislative reforms, monitoring government compliance with treaty obligations, and raising public awareness of human rights protections. National human rights institutions, such as the Uganda Human Rights Commission, also contribute to treaty implementation by investigating human rights violations and promoting adherence to international human rights standards. Future research examining the interactions between government institutions, civil society organisations, and national human rights bodies may provide valuable insights into the broader ecosystem of actors involved in promoting compliance with international human rights obligations.

Additionally, scholars may explore the long-term impact of international human rights treaties on domestic legal culture and governance practices. International legal commitments may influence domestic legal systems not only through legislative reforms but also through the gradual diffusion of human rights norms within public institutions, legal education, and civil society advocacy. Research examining how international human rights principles shape public discourse, legal training, and policy development may contribute to a deeper understanding of how international law influences domestic governance over time.

Finally, future research may also examine the political dimensions of treaty ratification and domestication. The findings of this study suggest that political priorities, institutional interests, and governance dynamics may influence how treaty commitments are interpreted and implemented within domestic legal systems. Further research exploring the political factors that shape treaty governance including the role of political leadership, parliamentary dynamics, and public opinion may provide valuable insights into the broader political context within which international human rights obligations are implemented.

In conclusion, while this study has contributed to understanding the legal and institutional processes involved in treaty ratification and domestication in Uganda, the issues explored in this research remain part of a broader and evolving field of inquiry. Continued scholarly engagement with these topics may deepen understanding of how international human rights treaties influence domestic legal systems and governance practices. Examining the interplay between legal frameworks, institutional capacity, political dynamics, and social actors, future research may provide further insights into the conditions under which international human rights commitments translate into meaningful improvements in human rights protection at the national level.

## **5.6 Conclusion**

This study set out to examine the legal and institutional dynamics shaping the ratification and domestication of international human rights treaties in Uganda. The central objective of the research was to analyse how international human rights obligations are incorporated into the domestic legal system and how institutional structures influence the effectiveness of treaty implementation. In pursuing this objective, the study explored four key dimensions of treaty governance: the effectiveness of treaty ratification and domestication processes, the institutional

framework governing treaty implementation, the degree of alignment between domestic legislation and international human rights treaties, and the broader implications of Uganda's status as a State Party to international human rights instruments.

The findings of the study demonstrate that Uganda has established a structured legal framework for engaging with international human rights treaties. The Constitution of the Republic of Uganda and the Ratification of Treaties Act provide the legal basis for treaty ratification and outline the institutional roles of the executive and legislative branches in the treaty process. These legal frameworks reflect the characteristics of a dualist legal system in which international treaties do not automatically become part of domestic law upon ratification but require legislative incorporation before they can be directly applied within the national legal system. This legal arrangement is consistent with the constitutional traditions of many common law jurisdictions, where international legal commitments must be integrated into domestic law through legislative processes.

The existence of this legal framework demonstrates Uganda's formal commitment to participating in the international human rights regime and to recognising the normative authority of international human rights standards. By ratifying international treaties, the state signals its willingness to accept obligations relating to the protection and promotion of fundamental rights. However, the findings of the study also indicate that ratification alone does not automatically translate into effective human rights protection. Instead, the effectiveness of treaty ratification depends largely on the processes through which treaty obligations are domesticated, implemented, and monitored within the domestic legal system.

The research findings reinforce a central argument within international human rights scholarship: that the domestic impact of international human rights treaties depends not only on legal commitments but also on institutional capacity and governance structures. Ratification represents only the initial stage in a broader process of legal and institutional transformation through which international norms are incorporated into domestic governance systems. Legislative reforms, institutional coordination, and administrative capacity are all essential components of this process. Without these supporting mechanisms, the normative commitments expressed through treaty ratification may remain largely symbolic.

The study further reveals that the domestication of international human rights treaties in Uganda involves a complex institutional framework comprising multiple actors with different but interrelated responsibilities. Key institutions involved in the treaty domestication process include the Ministry of Foreign Affairs, which manages treaty negotiations and international relations; the Office of the Attorney General, which provides legal advice on treaty obligations and facilitates legislative drafting; Parliament, which exercises legislative authority in approving laws necessary to implement treaty commitments; and sectoral ministries responsible for implementing treaty obligations within specific policy areas. In addition, oversight institutions such as the Uganda Human Rights Commission play an important role in monitoring compliance with international human rights standards.

The interaction among these institutions plays a central role in shaping the effectiveness of treaty implementation. The findings of the study indicate that the domestication process often requires coordination among multiple institutions responsible for legal drafting, policy development, and administrative implementation. This multi-institutional structure reflects the

complexity of translating international legal commitments into domestic governance practices. The effectiveness of this institutional framework therefore depends on the extent to which these institutions are able to coordinate their activities and integrate treaty obligations into their respective areas of responsibility.

Another important finding of the study concerns the alignment between domestic law and international human rights obligations. The research demonstrates that Uganda's constitutional framework incorporates many of the fundamental rights recognised in international human rights treaties. The Bill of Rights contained in the Constitution reflects key principles of international human rights law, including equality before the law, protection of human dignity, freedom from discrimination, and the protection of fundamental freedoms. This constitutional alignment illustrates how international human rights norms have influenced the development of domestic legal frameworks.

Nevertheless, the findings also indicate that achieving full harmonisation between domestic legislation and international treaty obligations remains an ongoing process. While constitutional provisions provide a strong normative foundation for human rights protection, many treaty obligations require detailed legislative and administrative measures before they can be effectively implemented. The process of legal harmonisation therefore involves continuous legislative review and policy reform aimed at ensuring that domestic laws remain consistent with international human rights standards.

The study also highlights the broader implications of Uganda's participation in international and regional human rights regimes. As a State Party to numerous international and regional human rights treaties, Uganda participates in systems of international monitoring

designed to promote compliance with human rights obligations. These monitoring mechanisms include United Nations treaty bodies and regional institutions such as the African Commission on Human and Peoples' Rights. Through periodic reporting and engagement with these monitoring bodies, Uganda is subject to international scrutiny regarding its implementation of treaty commitments.

Participation in these monitoring processes has important implications for domestic governance. International monitoring bodies often issue recommendations aimed at strengthening national human rights frameworks and addressing areas where improvements may be required. These recommendations contribute to shaping domestic policy debates and encourage governments to review their legal frameworks and institutional practices. In this way, international human rights monitoring mechanisms serve as important channels through which international norms influence domestic governance processes.

At the same time, the study identifies several challenges associated with treaty implementation. These challenges include institutional coordination difficulties, limitations in administrative capacity, and the need for continued legislative harmonisation between domestic law and international treaty obligations. The research also highlights the institutional dynamics surrounding parliamentary engagement in treaty governance, noting that legislative involvement often occurs primarily during the domestication phase rather than during earlier stages of treaty negotiation. This pattern reflects the broader constitutional allocation of responsibilities in foreign affairs but also raises important questions regarding the role of legislative oversight in international lawmaking.

Beyond its empirical findings, this study contributes to broader debates in international human rights law concerning the relationship between international legal commitments and domestic governance structures. The Ugandan case illustrates that international human rights treaties function not merely as external legal obligations but as part of a dynamic process through which international norms interact with domestic legal and political institutions. International legal commitments influence domestic governance through constitutional interpretation, legislative reform, institutional practices, and public policy debates.

In this respect, the study reinforces the view that the effectiveness of international human rights law should be understood in terms of its capacity to influence domestic legal systems and governance practices. International treaties establish normative standards that guide state behaviour, but their practical impact depends on how those standards are incorporated into domestic legal frameworks and implemented by national institutions. The Ugandan experience demonstrates that treaty implementation involves an ongoing process of negotiation between international legal norms and domestic institutional realities.

Ultimately, the findings of this study underscore the importance of examining both legal frameworks and institutional processes when evaluating the effectiveness of international human rights treaties. While legal ratification establishes the formal basis for participation in the international human rights system, the realisation of treaty obligations depends on the capacity of domestic institutions to translate international norms into effective governance practices. By analysing the institutional dynamics that shape treaty domestication in Uganda, this study contributes to a deeper understanding of how international human rights obligations operate within domestic legal systems.

The insights generated by this research therefore extend beyond the Ugandan context and contribute to broader scholarly discussions regarding the implementation of international human rights law in dualist legal systems. By highlighting the interaction between legal frameworks, institutional structures, and governance processes, the study provides valuable perspectives on the conditions under which international human rights treaties can contribute to strengthening the protection and promotion of human rights at the national level.

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## APPENDIX A: RESEARCH TOOL

### ***Treatment of the identity of the participant***

*Considering that the information you will provide for this study will come from your personal experience and views, I recognise that it may be prejudicial to you when you are named as the source. You are, therefore, free to decide whether you would like your identity to be disclosed (named) or whether it should be kept anonymous concerning the information you will have provided, in the final report. This is important for this study as the ethical concerns require that the participant is guaranteed protection.*

### ***Voice recording***

*Considering that in-depth information will be required, to meet approximately 55 minutes is required to conduct the interview, I request you to allow me record the discussions. This will enable me to refer to it later. The recording will, however, be deleted as soon as the information provided is incorporated in the report (within 4 weeks from time of interview).*

### **Section A: Background information**

*(This section provides a brief description of the respondent and the organization worked for)*

A.1. Gender: Male  Female  Others  Prefer not to mention

A.2 Age (years): 30 - 40  41 - 50;  51 - 60  61 - 70  Above 70

### **Section B: Municipal laws**

*(This section solicits information concerning the practice of ratification and domestic incorporation of treaties)*

#### **B.1 Constitution of the Republic of Uganda 1995**

**a) What is the practice of international treaty ratification under the Constitution of the Republic of Uganda?**

**a) What is the practice of treaty ratification under the Constitution?**

- i) Who (individuals/ institutions) makes the decision to ratify a human rights treaty in Uganda and what are their roles? (E.g. Attorney General, Parliament)
- ii) What is the procedure for ratification of human rights treaties in Uganda?
- iii) How do the procedures differ from other (non-human rights) treaties?
- iv) What steps are undertaken in treaty ratification?
- v) What problems have been encountered in treaty ratification in Uganda and how have they been addressed?
- vi) How different are procedures for treaty ratification in Uganda compared to other EAC member states?

#### **B. 2 Ratification of Treaties Act Cap 204 of 1998 (Uganda)**

- a) What is the practice of treaty ratification in this Act?
- i) Who (individuals/ institutions) makes the decision to ratify a human rights treaty in Uganda and what are their roles? (E.g. Attorney General, Parliament)
- ii) What is the procedure for ratification of human rights treaties in Uganda?
- iii) How do the procedures differ from other (non-human rights) treaties?
- iv) What steps are undertaken in treaty ratification?
- v) What problems have been encountered in treaty ratification in Uganda and how have they been addressed?
- vi) How different are procedures for treaty ratification in Uganda compared to other EAC member states?

### **Section C: International Instruments**

*(This section solicits information concerning International Instruments and ratification of treaties)*

#### **C.1 International Covenant on Economic, Social and Cultural Rights (ICESCR)**

##### **(a) What commitment is required of a state to ratify ICESCR?**

***Probe:***

- i) *What initial steps did Uganda take before becoming a party to ICESCR (to show its commitment)?*
- ii) *Who were involved and what were their various roles?*

##### **b) What must a state desirous of joining the ICESCR treaty do concerning ratification of the treaty?**

***Probe:***

- i). *What was Uganda required to do to become a party to ICESCR?*
- ii). *How did Uganda fulfil the requirements to become a party to ICESCR?*
- iii) *What are Uganda's responsibilities under ICESCR?*
- iv) *To what extent has Uganda fulfilled its responsibilities under ICESCR?*
- v) *What problems has Uganda experienced in fulfilling its requirements to become a party to ICESCR and how has it solved the problem(s)?*
- vi) *What problems has Uganda experienced in fulfilling its mandate under ICESCR and how has it solved the problem(s)?*
- vii) *Are the requirements of ratification of non-human rights treaties different from ICESCR and how?*
- Viii *Comment on the practice of ratification and domestication of ICESCR in:*
  - a) *Uganda and*
  - b) *Other East African Community member countries.*
  - c) *What are the similarities and differences?*

- c) **What is a state party to the treaty concerning ratification under the ICESCR required to do to be bound by the treaty?**

**Probe:**

- i) *What has Uganda done to be bound by the ICESCR?*
- ii) *What problems has Uganda encountered in the process of being bound and how has the problem been solved?*

**C.2 International Covenant on Civil and Political Rights (ICCPR) 1966.****(a) What commitment is required of a state to ratify ICCPR?****Probe:**

- i) *What initial steps did Uganda take before becoming a party to ICCPR (to show its commitment)?*
- ii) *Who were involved and what were their various roles.*

**b) What must a state desirous of joining the ICCPR treaty do concerning ratification of the treaty?****Probe:**

- i). *What was Uganda required to do to become a party to ICCPR?*
- ii). *How did Uganda fulfil the requirements to become a party to ICCPR?*
- iii) *What is Uganda's mandate under ICCPR?*
- iv) *To what extent has Uganda fulfilled its mandate Under ICCPR?*
- v) *What problems has Uganda experienced in fulfilling its requirements to become a party to ICESCR and how has it solved the problem(s)?*
- vi) *What problems has Uganda experienced in fulfilling its mandate under ICCPR and how has it solved the problem(s)?*
- vii) *Are the requirements of ratification of non-human rights treaties different from ICCPR and how?*
- viii) *Comment on the practice of ratification and domestication of ICCPR in:*
  - a) *Uganda and*
  - b) *Other East African Community member countries.*
  - c) *What are the similarities and differences?*

- c) *What is a state party to the treaty concerning ratification under the ICCPR required to do to be bound by the treaty?*

**Probe:**

- i) *What has Uganda done to be bound by the ICCPR?*
- ii) *What problems has Uganda encountered in the process of being bound, and how have these problems been solved?*

**C.3 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979.****(a) What commitment is required of a state to ratify CEDAW?**

**Probe:**

- i) *What initial steps did Uganda take before becoming a party to CEDAW, demonstrating its commitment?*
- ii) *Who was involved and what were their various roles?*

**b) What must a state desirous of joining the CEDAW treaty do concerning ratification of the treaty?**

**Probe:**

- i). *What was Uganda required to do to become a party to CEDAW?*
- ii). *How did Uganda fulfil the requirements to become a party to CEDAW?*
- iii) *What is Uganda's mandate under CEDAW?*
- iv) *To what extent has Uganda fulfilled its mandate Under CEDAW?*
- v) *What problems has Uganda experienced in fulfilling its requirements to become a party to CEDAW and how has it solved the problem(s)?*
- vi) *What problems has Uganda experienced in fulfilling its mandate under CEDAW and how has it solved the problem(s)?*
- vii) *Are the requirements of ratification of non-human rights treaties different from CEDAW and how?*
- Viii) *Comment on the practice of ratification and domestication of CEDAW in:*
  - a) *Uganda and*
  - b) *Other East African Community member countries.*
  - c) *What are the similarities and differences?*

c) *What is a state party to the treaty concerning ratification under the CEDAW required to do to be bound by the treaty?*

**Probe:**

- i) *What has Uganda done to be bound by the CEDAW?*
- ii) *What problems has Uganda encountered in the process of being bound and how has the problem been solved?*

#### **C. 4 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984**

**(a) What commitment is required of a state to ratify CAT?**

**Probe:**

- i) *What initial steps did Uganda take before becoming a party to CAT (to show its commitment)?*
- ii) *Who were involved and what were their various roles.*
- iii) *Comment on the commitment of a state to ratify a human rights treaty*

**b) What must a state desirous of joining the CAT treaty do concerning ratification of the treaty?**

**Probe:**

- i). *What was Uganda required to do to become a party to CAT?*
- ii). *How did Uganda fulfil the requirements to become a party to CAT?*
- iii) *What is Uganda's mandate under CAT?*
- iv) *To what extent has Uganda fulfilled its mandate Under CAT?*
- v) *What problems has Uganda experienced in fulfilling its requirements to become a party to CAT and how has it solved the problem(s)?*
- vi) *What problems has Uganda experienced in fulfilling its mandate under CAT and how has it solved the problem(s)?*
- vii) *Are the requirements of ratification of non-human rights treaties different from CAT and how?*
- Viii *Comment on the practice of ratification and domestication of CAT in:*
  - a) *Uganda and*
  - b) *Other East African Community member countries.*
  - c) *What are the similarities and differences?*

c) What is a state party to the treaty concerning ratification under the CAT required to do to be bound by the treaty?

**Probe:**

- i) *What has Uganda done to be bound by the CAT?*
- ii) *What problems has Uganda encountered in the process of being bound and how has the problem been solved?*

**C.5 Convention on the Rights of the Child (CRC) 1989****(a) What commitment is required of a state to ratify CRC?****Probe:**

- i) *What initial steps did Uganda take before becoming a party to CRC (to show its commitment)?*
- ii) *Who were involved and what were their various roles.*

**b) What must a state desirous of joining the CRC treaty do concerning ratification of the treaty?**

**Probe:**

- i). *What was Uganda required to do to become a party to CRC?*
- ii). *How did Uganda fulfil the requirements to become a party to CRC?*
- iii) *What is Uganda's mandate under CRC?*
- iv) *To what extent has Uganda fulfilled its mandate Under CRC?*
- v) *What problems has Uganda experienced in fulfilling its requirements to become a party to CAT and how has it solved the problem(s)?*
- vi) *What problems has Uganda experienced in fulfilling its mandate under CRC and how has it solved the problem(s)?*

vii) *Are the requirements of ratification of non-human rights treaties different from CAT and how?*

Viii *Comment on the practice of ratification and domestication of CRC in:*

- a) *Uganda and*
- b) *Other East African Community member countries.*
- c) *What are the similarities and differences?*

c) *What is a state party to the treaty concerning ratification under the CRC required to do to be bound by the treaty?*

**Probe:**

- i) *What has Uganda done to be bound by the CAT?*
- ii) *What problems has Uganda encountered in the process of being bound and how has the problem been solved?*

**C.6 Convention of Rights of Persons with Disabilities (CRPWD) 2006.**

**(a) What commitment is required of a state to ratify CRPWD?**

**Probe:**

- i) *What initial steps did Uganda take before becoming a party to CRPWD (to show its commitment)?*
- ii) *Who were involved and what were their various roles.*

**b) What must a state desirous of joining the CRPWD treaty do concerning ratification of the treaty?**

**Probe:**

- i). *What was Uganda required to do to become a party to CRPWD?*
- ii). *How did Uganda fulfil the requirements to become a party to CRPWD?*
- iii) *What is Uganda's mandate under CRC?*
- iv) *To what extent has Uganda fulfilled its mandate Under CRPWD?*
- v) *What problems has Uganda experienced in fulfilling its requirements to become a party to CAT and how has it solved the problem(s)?*
- vi) *What problems has Uganda experienced in fulfilling its mandate under CRPWD and how has it solved the problem(s)?*
- vii) *Are the requirements of ratification of non-human rights treaties different from CRPWD and how?*

Viii *Comment on the practice of ratification and domestication of CRPWD in:*

- a) *Uganda and*
- b) *Other East African Community member countries.*
- c) *What are the similarities and differences?*

c) *What is a state party to the treaty concerning ratification under the CRPWD required to do to be bound by the treaty?*

**Probe:**

- i) *What has Uganda done to be bound by the CRPWD?*
- ii) *What problems has Uganda encountered in the process of being bound and how has the problem been solved?*

### **C.7. Convention for the Protection of All Persons from Enforced Disappearance (CED) 2006**

#### **(a) What commitment is required of a state to ratify CED?**

**Probe:**

- i) *What initial steps did Uganda take before becoming a party to CED (to show its commitment)?*
- ii) *Who were involved and what were their various roles.*

#### **b) What must a state desirous of joining the CED treaty do concerning ratification of the treaty?**

**Probe:**

- i). *What was Uganda required to do to become a party to CED?*
- ii). *How did Uganda fulfil the requirements to become a party to CED?*
- iii) *What is Uganda's mandate under CRC?*
- iv) *To what extent has Uganda fulfilled its mandate Under CED?*
- v) *What problems has Uganda experienced in fulfilling its requirements to become a party to CAT and how has it solved the problem(s)?*
- vi) *What problems has Uganda experienced in fulfilling its mandate under CED and how has it solved the problem(s)?*
- vii) *Are the requirements for ratifying non-human rights treaties different from those for the CED, and if so, how?*

#### *VIII Comment on the practice of ratification and domestication of CED in:*

- a) *Uganda and*
- b) *Other East African Community member countries.*
- c) *What are the similarities and differences?*

- c) *What is a state party to the treaty concerning ratification under the CED required to do to be bound by the treaty?*

**Probe:**

- i) *What has Uganda done to be bound by the CED?*
- ii) *What problems has Uganda encountered in the process of being bound, and how have these issues been addressed?*

### **C.8 Implications on States for Non-Ratification of Treaties**

#### **(a) What are the implications of a state ratifying an international treaty?**

**Probe:**

- i) What is the effect on a state for non-ratification of human rights treaties (e.g ICCPR, CAT, CED)?
- ii) Are the effects similar across human rights treaties?

**D: African Regional Instruments**

*(This section solicits information concerning African regional Instruments and ratification of treaties)*

**D. 1. African Charter on Human and People's Rights (ACHPR) (Banjul Charter)****(a) What commitment is required of a state to ratify ACHPR?****Probe:**

- i) What initial steps did Uganda take before becoming a party to ACHPR (to show its commitment)?
- ii) Who were involved and what were their various roles.

**b) What must a state desirous of joining the ACHPR treaty do concerning ratification of the treaty?****Probe:**

- i). What was Uganda required to do to become a party to ACHPR?
- ii). How did Uganda fulfil the requirements to become a party to ACHPR?
- iii) What is Uganda's mandate under ACHPR?
- iv) To what extent has Uganda fulfilled its mandate Under ACHPR?
- v) What problems has Uganda experienced in fulfilling its requirements to become a party to CAT and how has it solved the problem(s)?
- vi) What problems has Uganda experienced in fulfilling its mandate under ACHPR and how has it solved the problem(s)?
- vii) Are the requirements of ratification of non-human rights treaties different from ACHPR and how?
- Viii) Comment on the practice of ratification and domestication of ACHPR in:
  - a) Uganda and
  - b) Other East African Community member countries.
  - c) What are the similarities and differences?

- c) What is a state party to the treaty concerning ratification under the ACHPR required to do to be bound by the treaty?

**Probe:**

- i) What has Uganda done to be bound by the ACHPR?
- ii) What problems has Uganda encountered in the process of being bound, and how have these problems been solved?

**D.2 African Commission on Human and Peoples' Rights**

- a) What is the focus of the treaty concerning human rights?
- b) How does a state join the treaty (Ratification)?
- c) What is the Formal confirmation that a State has ratified the instrument?
- d) How does adherence to a regional human rights treaty differ from a UN treaty?

## **E. Sub-regional Instruments**

*(This section solicits information concerning regional Instruments and ratification of treaties)*

### **E.1 East African Community Treaty/ Protocol on human rights**

#### **a) What is the focus of the treaty concerning human rights?**

**Probe:**

- i) *What were the requirements of Uganda to become party to the treaty?*
- ii) *How did Uganda fulfil the requirement?*
- iii) *What steps are followed to ratify human rights protocol under the EAC treaty?*
- iv) *What is the problem with the protocol (Given that the protocol is still in draft form, what could be the problem?].*

## **F. Other Municipal Laws**

*(This section solicits information concerning the practice of ratification and domestic incorporation of treaties)*

### **F.1 Judicature Act Cap 13 of 1996**

#### **a) What is the practice of ratification of international treaties under this Act?**

**Probe:**

- i) What are the procedures for ratification of treaties under the Act?
- ii) Which institutions are responsible for the ratification of treaties?
- iii) How are decisions concerning ratification of treaties communicated?
- iv) At what stage does each institution stop in the treaty ratification process?

### **F.2. Non-ratification of a treaty**

#### **(a) What are the implications for Uganda of the non-ratification of treaties, such as the CED?**

**Probe:**

- i) What could Uganda lose for not ratifying CED?
- ii) How can Uganda's standing be among the community of nations for not ratifying the CED?
- iii) What disincentives are associated with non-ratification?
- iv) At what level do the disincentives apply (*at international, regional and/ or at sub-regional level*).

## **G. Domestication of Human Rights Treaties**

- a) How is a treaty domesticated under the Constitution of the Republic of Uganda?
- b) How is a treaty domesticated under the statutory provisions in Uganda?
- c) How has the practice of domestication of treaties been affected by Law reform in Uganda?
- d) Which institutions are involved and what are their roles?

### **H.1. Consistency of Domestic Laws with International Human Rights Obligations**

- i) How do the standards of the domestic law (Uganda) meet international human rights standards?*
- ii) What steps were taken to bring domestic law to international human rights standards?*
- iii) what steps are being undertaken to close the gap?*

[The questions above relate to each of the instruments below]

- a) International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966.
- b) International Covenant on Civil and Political Rights (ICCPR) 1966.
- c) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979.
- d) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984.
- e) Convention on the Rights of the Child (CRC) 1989.
- f) Convention of Rights of Persons with Disabilities 2006.
- g) Convention for the Protection of All Persons from Enforced Disappearance 2006.

### **H. 2 Consistency of Domestic Laws with African Regional Instruments**

- i) How do the standards of the domestic law (Uganda) meet international human rights standards?*
- ii) What steps were taken to bring domestic law to international human rights standards?*
- iii) What steps are being undertaken to close the gap?*
- iv) Are there disparities in the regional and sub-regional instruments and in which area?*

[The questions above relate to each of the instruments below].

- a) African Charter on Human and People's Rights (Banjul Charter)
- b) The African Charter on the Rights and Welfare of the Child, 1990

### **I. Consistency of Domestic Laws with Sub-regional Instruments**

#### **a) East African Community Treaty/ Protocol on human rights**

- i) How do the standards of the domestic law (Uganda) meet the draft EAC human rights protocol standards?*
- ii) What steps were taken to bring domestic law to EAC human rights standards?*
- iii) What steps are being undertaken to close the gap?*
- iv) Are there disparities in the sub-regional and the regional and sub-regional instruments and in which area?*

### **J. Implications of Treaty Ratification**

- a) What are the reporting obligations under the treaties?
- b) What enforcement mechanisms are available for treaty compliance?
- c) How does treaty ratification Promote human rights?

**Thank you for participating in this interview!!!!!!!!!!!!**

## APPENDIX B: CONSENT FORM



UU\_IC - Version 2.1



## Informed Consent Form

## Part 1: Debriefing of Participants

Student's Name: Peter Busiku

Student's E-mail Address: busikup100@gmail.com

Student ID #: R2005D10815268

Supervisor's Name: Dr Stuart Casey Maslen

University Campus: Unicaf University Zambia (UUZ)

Program of Study: PhD Doctorate of Philosophy

Research Project Title: A Legal Analysis of the Practice of the Ratification and Domestic Incorporation of Human Rights Treaties in Uganda

Date: 22-Jun-2023

Provide a short description (purpose, aim and significance) of the research project, and explain why and how you have chosen this person to participate in this research (maximum 150 words).

The purpose of legal analysis in the context of ratification and domestic incorporation of human rights in Uganda is to examine and evaluate the process by which international human rights treaties are ratified and incorporated within the national legal framework. This analysis helps to ensure that Uganda domestic laws are consistent with international instruments. The research is significant as it will help to identify gaps in the law if any, and recommend ways in which the law may be made more effective. Furthermore, the study will evaluate the current legislation with the view to determining whether they are consistent with international human rights instruments and make recommendations for appropriate action. Participants will be purposely selected based on the knowledge, skills and experience they were considered to have acquired in their various positions in the field relevant to this study.

The above named student is committed to ensuring participant's voluntarily participation in the research project and guaranteeing there are no potential risks and/or harms to the participants.

Participants have the right to withdraw at any stage (prior or post the completion) of the research without any consequences and without providing any explanation. In these cases, data collected will be deleted.

All data and information collected will be coded and will not be accessible to anyone outside this research. Data described and included in dissemination activities will only refer to coded information ensuring beyond the bounds of possibility participant identification.

I, Peter Busiku, ensure that all information stated above is true and that all conditions have been met.

Student's Signature: \_\_\_\_\_

## Informed Consent Form

### Part 2: Certificate of Consent

**This section is mandatory and should to be signed by the participant(s)**

<b>Student's Name:</b>	Peter Busiku
<b>Student's E-mail Address:</b>	busikup100@gmail.com
<b>Student ID #:</b>	R2005D10815268
<b>Supervisor's Name:</b>	Dr Stuart Casey Maslen
<b>University Campus:</b>	Unicaf University Zambia (UUZ) <span style="float: right;">▼</span>
<b>Program of Study:</b>	PhD Doctorate of Philosophy
<b>Research Project Title:</b>	A Legal Analysis of the Practice of the Ratification and Domestic Incorporation of Human Rights Treaties in Uganda

I have read the foregoing information about this study, or it has been read to me. I have had the opportunity to ask questions and discuss about it. I have received satisfactory answers to all my questions and I have received enough information about this study. I understand that I am free to withdraw from this study at any time without giving a reason for withdrawing and without negative consequences. I consent to the use of multimedia (e.g. audio recordings, video recordings) for the purposes of my participation in this study. I understand that my data will remain anonymous and confidential, unless stated otherwise. I consent voluntarily to be a participant in this study.

Participant's Print name:

Participant's Signature:

Date:

**If the Participant is illiterate:**

I have witnessed the accurate reading of the consent form to the potential participant, and the individual has had an opportunity to ask questions. I confirm that the aforementioned individual has given consent freely.

Witness's Print name:

Witness's Signature:

Date:

## APPENDIX C: UNIVERSITY RESEARCH ETHICS COMMITTEE DECISION


 UREC Decision, Version 2.0
 

### Unicaf University Research Ethics Committee Decision

Student's Name: Peter Busiku

Student's ID #: R2005D10815268

Supervisor's Name: Dr Stuart Casey Maslen

Program of Study: UUZ: PhD Doctorate of Philosophy

Offer ID /Group ID: O59999G63616

Dissertation Stage: 3

 Research Project Title: A Legal Analysis of the Practice of Ratification and Domestic  
Incorporation of Human Rights treaties in Uganda

Comments: No comments.

Decision\*: A. Approved without revision or comments

Date: 22-Aug-2023

\*Provisional approval provided at the Dissertation Stage 1, whereas the final approval is provided at the Dissertation stage 3. The student is allowed to proceed to data collection following the final approval.

## APPENDIX D: GATEKEEPER LETTER



UU\_GL - Version 2.0



## Gatekeeper letter

**Address:** Ministry of Foreign Affairs**Date:** 22-Jun-2023**Subject:** Participant Recruitment

Dear Sir/ Madam,

I am a doctoral student at Unicaf University Zambia.

As part of my degree I am carrying out a study on "A Legal Analysis of the Practice of the Ratification and Domestic Incorporation of Human Rights Treaties in Uganda".

I am writing to enquire whether you would be willing to participate in this research.

Subject to approval by Unicaf Research Ethics Committee (UREC) this study will be using an interview guide to conduct an interview with you.

The study is entitled "A Legal Analysis of the Practice of the Ratification and Domestic Incorporation of Human Rights Treaties in Uganda". It will examine the current legal framework in Uganda concerned with treaty ratification to determine whether they are effective. Furthermore, the study will evaluate the legal framework on human rights in Uganda to determine whether they are consistent with the international instruments on human rights. The study will be supervised by Prof Stuart Maslen.

Under the study you are required to respond to interview questions which will solicit information based on your knowledge and experience in international law and specifically the practice of treaty ratification and domestication in Uganda.

Thank you in advance for your time and for your consideration of this project. Kindly please let me know if you require any further information or need any further clarifications.

Yours Sincerely,

**Student's Name:** Busiku Peter  
**Student's E-mail:** busikup100@gmail.com  
**Student's Address and Telephone:** +256772444607  
**Supervisor's Title and Name:** Prof. Stuart Maslen.  
**Supervisor's Position:** Supervisor  
**Supervisor's E-mail:** s.maslen@unicaf.org

## APPENDIX E: LOCAL/NATIONAL APPROVALS



## Research Ethics Committee (MUREC)

22 September 2023

**Peter Busiku**

Principal Investigator

Type:  Initial Review

Expedited

Protocol Amendment

Continuing Review

Other, Specify

Dear Peter,

**Re: Research approval: # REC REF 0913-2023 "A LEGAL ANALYSIS OF THE PRACTICE OF THE RATIFICATION AND DOMESTIC INCORPORATION OF HUMAN RIGHTS TREATIES IN UGANDA".**

Thank you for submitting this application for approval of the above-referenced protocol to MUREC.

I am glad to inform you that approval is hereby given to conduct the study; this approval is given following your exhaustive responses to initial comments raised by MUREC. The approval is for one-year, effective 22 September 2023, and will expire on 22 September 2024.

**As Principal Investigator of the research, you are responsible for fulfilling the following requirements of approval:**

1. All co-investigators must be kept informed of the status of the research.
2. Changes, amendments, and addenda to the protocol or the consent form must be submitted to the **MUREC** for re-review and approval **prior** to the activation of the changes. The MUREC application number assigned to the research should be cited in any correspondence.
3. Reports of unanticipated problems involving risks to participants or others must be submitted to the **MUREC**. New information that becomes available that could change the risk: benefit ratio must be submitted promptly for **MUREC** review.
4. Only approved consent forms are to be used in the enrolment of participants. All consent forms signed by subjects and/or witnesses should be retained on file. The **MUREC** may conduct audits of all study records, and consent documentation may be part of such audits.
5. Regulations require review of an approved study not less than once per 12-month period. **Therefore, a continuing review application must be submitted to the MUREC Two months prior to the above expiration date of [22 September 2023] in order to**

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**continue with the study beyond the approved period.** Failure to submit a continuing review application in a timely fashion may result in suspension or termination of the study, at which point new participants may not be enrolled, and currently enrolled participants must be taken off the study.

6. Approval from the National Drug Authority should be sought where applicable.
7. You are required to register the research protocol with the Uganda National Council for Science and Technology (UNCST) for final clearance to undertake the study in Uganda.

**The following is the List of all documents approved in this application by the MUREC:**

SN	Document Title	Language	Version	Version Date
1.	Protocol	English	3.0	15 September 2023
2.	Informed consent forms	English	3.0	15 September 2023
3	Budget	English	3.0	15 September 2023
4	Work plan	English	3.0	15 September 2023
5	Data collection tool	English	3.0	15 September 2023
6	Covid 19 Risk mitigation plan	English	3.0	15 September 2023
7	Community Engagement Plan	English	3.0	15 September 2023

Yours sincerely,



Ms. Susan Nakubulwa  
Chairperson

