INTERNATIONAL LEGAL RESOURCE CENTER

Application of International Treaties in Domestic Courts

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The comparative analysis of the application of international treaties in domestic courts was conducted by experts from the International Legal Resource Center (ILRC) database.[1]

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[1] The ABA/UNDP International Legal Resource Center engaged three experts to provide a thorough legal analysis under its leadership and guidance. These expert's Biographies can be found in Annex A of this report. The team of experts provided over 72 hours of *pro bono* service valued at $19,425 .

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Introduction

The Rule of Law Partnership in Uzbekistan

The Rule of Law Partnership in Uzbekistan is a joint project of the Supreme Court of the Republic of Uzbekistan, United States Agency for International Development (USAID) and United Nations Development Program (UNDP). The overarching goal of the project is to strengthen public access to and trust in Uzbekistan's civil court system. Working primarily with the Supreme Court of Uzbekistan, this project is building on the institution's organizational capacity as well as its political will in order to build public trust and achieve greater alignment with internationally recognized standards of accountability, rule of law, and judicial performance for civil courts. The project will provide assistance and support in the implementation of the current systemic and institutional reforms aimed at furthering the democratization and liberalization of the judicial and legal system.

The objectives of the Rule of Law Partnership include:

1. Increasing court responsiveness to citizen feedback through the introduction of accessibility and transparency mechanisms into civil courts activity;
2. Enhancing the knowledge and technical skills of judges, court personnel, and lawyers;
3. Improving courts' efficiency through the introduction of information systems

As part of the Rule of Law Partnership program, UNDP Uzbekistan has requested that the ABA/UNDP International Legal Resource Center (ILRC) analyze the application of various international treaties in civil courts and civil cases, with particular emphasis on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), and International Covenant on Economic, Social, and Cultural Rights (ICESCR). This report seeks to assist Uzbekistan in harmonizing national legislation with international treaties, with an emphasis on the role of the judiciary. ILRC experts analyzed the application of international treaties in China, the U.S., Germany, and Mexico. Experts examined issues including: universal or country specific models of application on UN conventions on human rights in domestic courts; common approaches of the application of international treaties by the judiciary; how civil trial participants apply international treaties; and how international treaties are applied in appeal procedures of civil cases.

Part I: China

I. Implementation of International Treaties in Domestic Civil Lawsuits, Cases, and Litigation

Universal or Country Specific Models

Are there any universal or country specific models of application on UN conventions on human rights in the courts of domestic jurisdiction?

China's courts almost never directly apply UN conventions on human rights in domestic cases. China's doctrines of treaty application differentiate only two implementation mechanisms: adoption and transformation. In the human rights field, Chinese courts only apply domestic laws that are transformed from international human rights treaties.[2] Despite the facts that China has ratified six core human rights treaties, as well as has been a party of other 21 human rights treaties concerning international refugees, genocide, humanitarian issues, the courts seem extremely unwilling to cite any clause of the human rights treaties mentioned above to decide cases.[3]

However, similar to the US and other countries, the fact that Chinese courts do not directly apply human rights treaties in general does not mean that there is no human rights protection in Chinese courts, because many human rights norms in human rights treaties have been incorporated in Chinese domestic laws. This is the so-called "dualist approach", where human rights treaties must be transformed into domestic laws by legislation.[4] By citing the domestic laws which share same principles with relevant human rights treaties, the courts protect and promote human rights in civil cases. To further illustrate this point, the discussion below introduces some important civil cases in China that protect human rights mentioned in three core human rights treaties including ICESCR, CRC and CEDAW.

ICESCR

China's courts have ruled against employers that have unlawfully discriminated against employees. These rulings are in conformity with Article 6 of ICESCR, which states inter alia, "[t]he States Parties to the present Covenant recognize the right to work, which includes

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[2] Sanzhuan Guo, Implementation of Human Rights Treaties by Chinese Domestic Courts: Problems and Prospects, Chinese Journal of International Law (2009), Vol. 8, No. 1, 161, 166. See, also, article, "Statements of the Chinese Government before Human Rights Treaty Bodies: Doctrine and Practice of Treaty Implementation," Ahl, Björn, Asian Law, Volume 12 (2010).

[3] Id, at 162. International human rights treaties ratified by China include: the International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Rights of the Child (CRC), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Convention on Elimination of Racial Discrimination (CERD) and the Convention on the Rights of Persons with Disabilities (CRPD). China is still considering whether or not to ratify the International Covenant on Civil and Political Rights (ICCPR),

[4] Id, at 162-63.

the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right". If employees are not treated equally, there is no way to guarantee their rights to work.

Similar to Article 6 of ICESCR, Article 30 of the Law of People's Republic of China on Promotion of Employment states, "When an employing unit recruits a person, it shall not use as a pretext that he is a pathogen carrier of an infectious disease to refuse to employ him". Article 30 was applied in *Zhang Xianzhu v. Wuhu Municipal Personnel Bureau*[5]. In *Zhang Xianzhu*, the plaintiff, 25-year old college graduate Zhang Xianzhu, received the highest score in the Wuhu civil service qualification examination, but was rejected because he had tested positive for the Hepatitis B Virus (HBV). Zhang filed a suit with the Xinwu District People's Court in Wuhu, alleging that the ban against HBV carriers was a discriminatory practice which violated his constitutional rights of equality and political participation. The court ruled that the decision by the defendant to refuse hiring the plaintiff based on his HBV status lacked sufficient evidence and revoked the concrete administrative action by the defendant. This case has been regarded as the landmark case in China, which shows the judiciary's intention to expand its protections on people's rights to work.

China's courts have, furthermore, respected the right of social security as described in Article 9 of ICESCR as "[t]he States Parties to the present Covenant recognize the right of everyone to social security, including social insurance." The spirit of Article 9 was respected in *Wu Fennv v. Shanghai Changning Municipal Engineering Station*,[6] where the plaintiff was a former employee of the defendant. She retired in 1982, and then was found guilty of fraud in 1989. She was sentenced 7 years in prison. During her time in prison, the defendant decided to suspend her pension and removed her name from the rolls. The plaintiff was released in 1996, and her pension request was denied by the defendant. The court ruled in her favor according to Article 3 of the Labor Law of People's Republic of China: "Laborers have the right to enjoy social security and welfare treatment".

An additional example is Article 13.2 (b) of ICESCR, which states that "[s]econdary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education". A famous case, generally be viewed as the *only constitutional case* in China's legal history, is called the Qi Yuling Case.[7] In this case, the plaintiff passed the secondary school admission examination and was supposed to receive the letter of admission. Meanwhile, the defendant failed the exam. The defendant's father intercepted the letter and helped the defendant steal the plaintiff's identity; which the defendant used to complete her education and find a decent job after graduation. The plaintiff discovered the fraud after 8 years and claimed deprivation of her right to education. The court ruled in her favor according to Article 46 of the Constitution:

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[5] Judgment made by the Xinwu District People's Court in 2003 (Xin Xing Chu Zi No. 11, 2003).

[5] Judgment made by the First Intermediate People's Court of Shanghai in 1997 (Hu Yi Zhong Min ZhongZi No. 2531, 1997).

[7] *Qi Yuling v. Chen Xiaoqi et al., Shandong Provincial People's Court*, www.chinalawinfo.com (23 June 2008).

"Citizens of the People's Republic of China have the duty as well as the right to receive education".

CRC

One of the core values protected and promoted by CRC is the "best interests of the child." Article 3, of the Convention states that "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." The "best interests of child" is not a free standing right since it has been viewed as a guiding principle in China's civil cases concerning children. Two different cases concerning the child's right of name demonstrate how the protection of best interests of the child has been advanced in China.

The first case is *Yao Pengcheng v. Yao Kunyun*. [8] The parties used to be married and had a child. After they divorced, the defendant changed the child's family name. The plaintiff claimed that his visitation rights had been violated. The court found in his favor and ruled that the child's family name must be restored. The court made this decision based on a judicial interpretation by the Supreme Court. However, the will of the child was totally ignored in this case. He had used the new name for six years and then he had to face all subsequent inconveniences.

The second case occurred several years later, [9] the facts are very similar to the former one even though the parties and jurisdiction are different. The plaintiff cited the same judicial interpretation. However, the court adopted a new rationale based on the principle of best interests of the child. The court ruled that the right of name belongs to the child who is entitled to change his name at will. Furthermore, due to the obvious potential inconveniences, the court further held that it was the best interest of the child to keep his new name unchanged.

CEDAW

Discrimination against women based on gender has deep roots in China's culture. Infringement of fundamental human rights like property rights, voting rights of women are frequent in history. However, China has showed a strong willing to improve the protection of women's interests and made concrete efforts. CEDAW is the first core human rights treaty ratified by China in 1980.[10] China also enacts relevant domestic laws to implement its duties. The Article 2 of Law of the People' Republic of China on the Protection of Women's Rights and Interests (PWIR) states that, "It is a basic state policy to realize equality between men and women. The state shall take necessary measures to gradually improve various systems for the protection of the rights and interests of women and to eliminate all kinds of discrimination against women." The following case illustrates how the

[8] Judgment made by the Intermediate People's Court of Kunming in 2001 (Kun Min Zhong Zi No. 1514, 2001).
[9] See old.chinacourt.org/html/article/200709/19/265509.shtml.
[10] See http://www.humanrights.cn/cn/zt/qita/rqzz/2008/03/t20081007_379095.htm.

value of this article is adopted by the courts.

The facts of *Xu Huaping v. Goudong Village Committee*[11] involved a dispute on compensation of expropriated land. The plaintiff's relocation compensation claim was denied by the defendant, the village committee. The defendant argued that since the plaintiff has married, she lost her interests in her original land and can only claim the rights of her husband's land. This ridiculous reasoning used to be normal in rural China. The court decided that this practice of the village committee violated PWRI by treating men and women unequally.

II. Application of International Treaties by Judiciary

What is the common approach to the application of international treaties by the judiciary? Simple citation in court rulings and decision, or using treaties for substantial matters?

As mentioned above, in the field of human rights, China's courts will directly apply domestic laws to redress any infringement of individual rights. In a broader area including commercial litigations and criminal cases, the courts may adopt different approaches. For example, in1986 and 1990, the Harbin court applied the Tokyo Covenant on the Prevention of Illegal Hijacking of Aircraft and the Montreal Covenant because Chinese criminal laws have no applicable corresponding provisions.[12] An important factor to decide whether to simply cite treaties or use them for substantial issues is the superiority of treaties and relevant domestic laws. There are four modes regarding the superiority of treaties and domestic laws, as follows:

(1) Treaties superior to domestic law. This category covers mainly commercial, economic, managerial and administrative laws, which are also the areas mentioned above as examples of direct application of treaties. Based on statistics, there are approximately 70 laws or regulations in this regard;[13]

(2) Domestic law superior to treaties, such as Article 32 of the Law on the Management of Entry and Exit of Foreigners;

(3) Some articles of treaties are mentioned, but not the relationship between the whole treaty and domestic law. China's Criminal Procedure Law (CRPL) is one example of this category; and

(4) Treaties do not apply directly in domestic laws to which most human-rights-related laws and regulations belong.

[11] Zhu Mingshan, Disputes on Land Use Right: Cases and Application (China Legal Publishing House, 2003), 22.
[12] Reporter of Decisions of the Supreme People's Court (1985-2001), Democracy and Legal System Publishing House (2001), 26-28.
[13] Gong Rengren, Implementing International Human Rights Treaties in China, in: Errol P. Mendes and Anik Lalonde-Roussy (eds), Bridging the Global Divide on Human Rights: A Canada–China Dialogue (2003), 102–103.

The first mode (i.e. treaties as superior to domestic law) is the most common approach applied in civil cases in the past 30 years since China adopted the open policy and embarked on economic reforms in 1978. Article 260 of the Civil Procedure Law states that for civil proceedings in cases involving foreign elements, "[i]f an international treaty concluded or acceded to by the People's Republic of China contains provisions that differ from provisions of this Law, the provisions of the international treaty shall apply, except for those on which China has made reservations." In the General Principles of the Civil Law of the People's Republic of China, promulgated in 1986, Chapter 8 on the Application of Law in Civil Relations with Foreign Elements provides in Article 142 exactly same words. Pursuant to Article 142 of the General Principles of the Civil Law and Article 260 of the Civil Procedure Law, Chinese courts have directly applied a number of international treaties in the context of adjudicating civil cases with foreign elements. For example, Chinese courts have directly applied: the 1980 United Nations Convention on Contracts for the International Sale of Goods(CISG); the 1929 Warsaw Convention on the Unification of Certain Rules Relating to International Carriage by Air (hereinafter, "the 1929 Warsaw Convention"); the 1955 Hague Protocol to the Warsaw Convention (hereinafter, "the 1955 Hague Protocol"); the Convention Supplementary to the Warsaw Convention for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other Than the Contracting Carrier; the 1951 Agreement Concerning International Carriage of Goods by Rail; and the 1974 United Nations Convention on a Code of Conduct for Liner Conferences.[14] Cases involving foreign elements mean civil relations and cases in which (i) one party or both parties to the dispute are foreign nationals, stateless persons, foreign enterprises or organizations, (ii) the legal facts that establish, modify or terminate the civil legal relations between parties arise in foreign territories, (iii) the habitual residence of one party or both parties to the dispute is located in foreign territories or (iv) the disputed object of the lawsuit is located in a foreign country.[15] So when such cases are adjudicated by the courts, international treaties will be directly applied.

One typical case is *Shanghai Zhenhua Port Machinery Co. Ltd v. United Parcel Service of America, Inc*.[16] In this case, the Shanghai company brought a lawsuit against UPS for delay in the delivery of documents sent by the international air carriage. The plaintiff claimed that UPS should return the carriage fees and pay compensation for the direct economic losses it suffered from the delayed service. The defendant disputed the amount of compensation owed. The Jing'an District People's Court of Shanghai stated that China is a party both to the 1929 Warsaw Convention and to the 1955 Hague Protocol. Article 11, paragraph 2 of the 1955 Hague Protocol provides:

> (a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of two hundred and fifty francs per kilogram, unless the passenger or consignor has made, at the time when the package was handed

[14] Xue Hanqin and Jin Qian, International Treaties in the Chinese Domestic Legal System, Chinese Journal of International Law (2009), Vol. 8, No. 2, 299–322, 310.
[15] Article 522, Interpretation of the Supreme People's Court of Several Issues concerning the Enforcement Procedures in the Application of the Civil Procedure Law of the People's Republic of China (2015).
[16] Judgment made by Jing'an District People's Court of Shanghai in 1994 (Jing Jing Chu Zi No. 14, 1994).

over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires.

(b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned.

These provisions are expressly stated on the back of the airway bill prepared by the defendant. Hence, the court determined that these provisions had been accepted both by the plaintiff and by the defendant. The court found that there was no legal basis for the plaintiff's claims for refund of carriage charges and compensation for economic losses. Instead, the court decided that the defendant should compensate the plaintiff's monetary loss for an amount up to the limit of the carrier's liability prescribed in the 1955 Hague Protocol.

III. Application of International Treaties by Civil Trial Participants

How do civil trial participants (claimant and defendant, attorneys, prosecutors, ect.) apply international treaties?

In civil cases, the principle of party autonomy greatly influences the way parties apply international treaties. First, when both parties in a case are citizens or legal entities of States Parties of an international treaty, the courts will adopt the treaty for sure. However, the parties can mutually agree that they want to exclude the application of the treaty.[17] According to Article 6 of CISG, "The parties may exclude the application of this Convention or, subject to article 12, derogate from or vary the effect of any of its provisions." Article 1 of Some Issues in the Implementation of the UN Convention on Contracts for the International Sale of Goods transmitted by the Supreme People's Court states that "Each company should generally apply the treaty when dealing with contracts of sale of goods, however they could vary the effect of any of its provisions or explicitly exclude the application of the treaty, and decide to apply the domestic law of a specific country".[18]

Second, if one party is not the citizen or legal entity of a state party, they could also apply relevant treatises before China's courts by agreeing to apply China's domestic law. Because when there is no applicable provision in Chinese law, the international treaty will be applicable. In *Yu Xiaohongv. Goodhill Navigation, S.A., Panama*,[19] the parties chose to apply China's domestic law, so the court cited provisions from Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea even though Panama is not a State Party of this convention.

[17] Xu Junke, The Rule of Autonomy of the Parties' Will: Impact on Court's Application of International Treaties, Legal Science (2014), Vol. 2, 39, http://article.chinalawinfo.com/ArticleFullText.aspx?ArticleId=88379.
[18] Ibid.
[19] Judgment made by Ningbo Maritime Court in 2001 (Yong Hai Chi Zi No.55, 1999).

Third, the parties can apply any treaty of which China is not a state party before China's courts. Article 9 of Interpretations of the Supreme People's Court on Several Issues Concerning Application of the Law of the People's Republic of China on Choice of Law for Foreign-Related Civil Relationships (I) states that "Where the parties invoke any international treaty not binding upon the People's Republic of China in the contract, the people's court may determine the rights and obligations between the parties in accordance with the content of such international treaty, provided that such international treaty is in violation of the social public interests of or mandatory provisions of the laws and regulations of the People's Republic of China." In past civil cases, especially in the field of maritime law, trial parties frequently chose to apply Hague-Visby Rules, of which China is not a State Party.[20]

IV. Application of International Treaties in Appeals Procedures

How are international treaties applied in appeal procedures of civil cases?

According to Article 174 of Civil Procedure Law, in the trial of a case on appeal, the appellate court shall follow the ordinary procedure for trials of first instance. So the application of international treatises in appeal procedures is the same to its application in trial procedures.

V. Role of the Supreme Court in Application of International Treaties

Does the Supreme Court or other designated judicial body issue Rules of Procedure or Resolutions on how to apply international treaties in the courts' practice?

China is not a common law/case law jurisdiction and has no concept of *stare decisis*. Thus, decisions even by the Supreme People's Court are not binding upon lower courts. In order to unify the laws, the Supreme People's Court issues judiciary interpretations from time to time (usually after a new law is enacted) to clarify the meanings of the provisions. It also bears some administrative functions to guide and supervise lowers courts by issuing directives and circulars.[21]

In the field of international treaties, there are often occasions when lower courts raise inquiries because they are not certain about the exact meaning of some treaty term or the intention of the contracting States parties. To help resolve such uncertainties, the Supreme People's Court has issued several notices of judicial directives on the interpretation and application of international treaties on civil and commercial matters.

Since the middle of the 1980s, China has concluded numerous extradition treaties, as well as bilateral agreements on judicial assistance in civil and criminal matters. For the implementation of these treaties in Chinese courts, in 1988 the Supreme People's Court issued the Circular on the Implementation of Judicial Assistance Agreements Concluded

[20] Xu, above n. 16, http://article.chinalawinfo.com/ArticleFullText.aspx?ArticleId=88379.
[21] Article 16, 32, Organic Law of the People's Courts of the People's Republic of China (2006).

between China and Other Countries.[22] The Circular clarified the implementation procedure and the review of documents for service to the competent national authority designated to handle requests for judicial assistance with other contracting States.

In 1993, the Supreme People's Court published the Circular on some issues concerning the full implementation of the Copyright Law of the People's Republic of China. Article 2, paragraph 2 of the Circular provides: "The people's courts, when dealing with copyright cases involving foreign elements, should apply the Copy right Law of the People's Republic of China and other related laws and regulations. Where the domestic laws have provisions different from those of the international treaties concluded or acceded to by China, the provisions of international treaties shall prevail, except for those provisions to which China has made reservations. Given the specific circumstances of each case, if neither domestic laws nor international treaties have any provision on the matter concerned, international custom may be taken into account on the basis of reciprocity."

The following year, the Supreme People's Court issued another notice requiring the lower courts, when hearing intellectual property cases, to "strictly apply the Trademark Law of the People's Republic of China, the Patent Law of the People's Republic of China, the Law of the People's Republic of China on Technology Contract, the Copyright Law of the People's Republic of China, the Law of the People's Republic of China against Unfair Competition, and other laws and regulations, as well as the international treaties on the protection of intellectual property concluded or acceded to by China." These circulars of the Supreme People's Court, given their binding effects in judicial hearings, operate to ensure that the lower courts properly apply the laws by strictly adhering to treaty provisions.[23]

Sometimes the Supreme People's Court may circulate notices jointly with the other judiciary body. In 1987, the Supreme People's Court, along with the Supreme People's Procuratorate, Ministry of Foreign Affairs, Ministry of Public Security, Ministry of National Security and Ministry of Justice, jointly issued the Provisions on Certain Questions in Regard to Cases with Foreign Elements, providing guidance to the lower courts in the interpretation and application of international treaties.[24] In 1995, the Supreme People's Court and other authorities issued another document with similar content. In the 1995 Provisions, Article 3 of Chapter 1 stipulates: "in the handling of cases with foreign elements, on the basis of the principle of reciprocity and mutual benefit, international treaty obligations undertaken by China should be strictly observed. In case domestic laws or internal regulations are in conflict with China's treaty obligations, the relevant provisions of international treaties shall prevail, except for those provisions to which China has made reservations. The competent authorities shall not invoke domestic laws or internal regulations as a justification for the refusal to perform treaty obligations."

Also in 1987, the Ministry of Foreign Trade and Economic Cooperation (now the Ministry of Commerce), which was responsible for the negotiation and conclusion of the 1980 United

[22] Xue, above n. 13, 314.
[23] Id, at 315.
[24] Ibid.

Nations Convention on Contracts for the International Sale of Goods, published an official document entitled "Some Issues in the Implementation of the UN Convention on Contracts for the International Sale of Goods".[25] The document contained explanations of the applicable law for contracts for international sale of goods and identified the countries to which the Convention is applicable. The Supreme People's Court transmitted the document in the form of a notice to the lower courts.

In 1991, China became a party to the Convention on Service Abroad of Judicial and Extra-judicial Documents in Civil or Commercial Matters, done at The Hague in 1965 (hereinafter, "Hague Service Convention").[26] In 1992, to help promote effective implementation of the Convention by the judiciary, and by Chinese diplomatic and consular missions abroad, the Supreme People's Court, Ministry of Foreign Affairs and Ministry of Justice jointly issued two documents: (i) the Circular on the Relevant Procedures to Implement the Convention on Service Abroad of Judicial and Extra judicial Documents in Civil or Commercial Matters; and (ii) the Measures on the Implementation of the Hague Service Convention.[27] The Circular specified the competent authorities and the procedures for the service of documents through diplomatic channels and judicial channels, respectively. The Measures contained specifications, in particular, on the time limitation for service, as well as rules for translations and communication of documents. Since Chinese national laws do not contain any special procedural rules for international judicial assistance, the above-mentioned notices issued by the Supreme People's Court help the courts to obtain proper information on the status of treaties that China has concluded with foreign countries. The notices also give legal guidance for the uniform implementation of the Hague Service Convention by domestic courts.

If the lower courts think the treaty terms are ambiguous, or they need further information regarding the treaty, they may submit a request, through the Supreme People's Court, to obtain a legal opinion concerning treaty issues from the Treaty and Law Department of the Ministry of Foreign Affairs. The Department's opinions might address, for example, the meaning of certain treaty terms, the scope of treaty provisions or the status of States Parties to a treaty. In response to a request from a lower court, the Supreme People's Court would either give its opinion on the legal issues or refer the request to the Foreign Ministry. The Treaty and Law Department of the Ministry, upon receiving a request, would give its legal opinion on the interpretation and application of the treaty terms in accordance with the relevant provisions of the Vienna Convention on the Law of Treaties. In its statement, the Department may also include information regarding the Chinese practice and the reciprocal basis of application with the country concerned. In practice, this mechanism is utilized primarily to address issues related to diplomatic privileges and immunities and sovereign immunities. Opinions of the Department are normally sent back to the Supreme People's Court for consideration. In principle, these opinions are taken by the courts as dispositive, since they often involve foreign policy and the treaty-making power, matters that are entrusted to the administrative department and to the State Council under the

[25] Id, at 316.
[26] Ibid.
[27] Ibid.

law.[28]

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4. Xu Junke, The Rule of Autonomy of the Parties' Will: Impact on Court's Application of International Treaties, Legal Science (2014), Vol. 2, 39.

5. Ahl, Björn, "Statements of the Chinese Government before Human Rights Treaty Bodies: Doctrine and Practice of Treaty Implementation," Asian Law, Volume 12 (2010).

[28] Id, at 317.

Part II: United States

I. Implementation of International Treaties in Domestic Civil Lawsuits, Cases, and Litigation

Universal or Country Specific Models

Are there any universal or country specific models of application of UN conventions on human rights in the courts of domestic jurisdiction?

The application of UN conventions on human rights in the courts of domestic jurisdictions will depend on whether the specific convention is considered a treaty and whether it is self-executing or non-self-executing.[29]

If a UN Convention is considered a treaty, then it would have the same hierarchy of federal law, and thus both federal and state courts must consider it "Supreme Law of the Land."[30] The U.S. constitutional system allows for three types of international agreements: (1) executive agreements (concluded by the President without the authorization of Congress); (2) congressional-executive agreements (those agreements approved by both houses of Congress – "either in advance, before the agreement is concluded internationally, or by enacting legislation after the international agreement has already been negotiated"); and (3) treaties (those agreements "approved by a two-thirds majority vote in the Senate pursuant to Article II of the Constitution.") With regard to international law, all of those international agreements are treaties; but with regard to constitutional law only the third is considered a treaty.[31] In other words, treaties, those international agreements entered into "by the Advice and Consent of the Senate," become the Supreme Law of the Land, and have the rank as federal law. Federal courts "adjudicate cases 'arising under treaties' […] and state courts have a duty to enforce treaties."[32]

Whether a UN Convention that is a treaty is to be applied directly by a domestic court depends on whether it is purported to be self-executing or non-self-executing. A self-executing treaty can be applied directly because it becomes part of federal law with the ratification.[33] Conversely, a non-self-executing treaty becomes part of the federal law, but

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[29] *See* U.S. Congressional Research Service. International Law and Agreements: Their Effect upon U.S. Law (RL32528; Feb. 18, 2015), by Michael John Garcia.
[30] U.S. Const. art. VI, § 2.
[31] David Sloss, *United States*, *in The Role of Domestic Courts in Treaty Enforcement*: *A comparative study* 505, and 506-7 (David Sloss ed. 2009).
[32] *Id*. at 507-08.
[33] *See Medellín v. Texas*, 552 U.S. 491 (2008) (stating that "[t]his Court has long recognized the distinction between treaties that automatically have effect as domestic law, and those that –while they constitute international law commitments- do not by themselves function as binding federal law." *Id*. at 504).

does not entail direct effects in the domestic legal order. A non-self-executing treaty is not enforceable without further implementing legislation.[34]

There is no general test to determine if a treaty provision is self-executing, yet courts ask, inter alia, if the language of the treaty is sufficiently precise or expresses a direct obligation for the judiciary and "whether immediate application of the provisions, in particular by the judiciary, is contemplated."[35] Also, there is no presumption "for or against self-execution."[36]

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW),[37] the Convention on the Rights of the Child (CRC),[38] and the International Covenant on Economic, Social, and Cultural Rights (ICESCR)[39] have not yet been ratified by the United States.[40]

However, those treaties are not meaningless in the U.S. domestic legal order. The signature of those Conventions entails certain obligations for the United States vis-à-vis the subject matter of those treaties, and the standards set forth in those Conventions may influence domestic constitutional adjudication via the use of foreign and comparative law in judicial decisions.[41]

Finally, the Convention Against Torture is an example of a ratified, but non-self-executing treaty. Congress passed implementing legislation in 1998, and it is thus now binding on local courts.[42]

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[34] *See Medellín,* 552 U.S. 505, n.2 (explaining that the meaning of self-executing imports "that the treaty has automatic domestic effect as federal law upon ratification. Conversely, a "non-self-executing" treaty does not by itself give rise to domestically enforceable federal law. Whether such a treaty has domestic effect depends upon implementing legislation passed by Congress"). *See generally* Lory F. Damrosh, *Medellín and Sanchez-Llamas*: T*reaties from John Jay to John Roberts*, *in International Law in the U.S. Supreme Court*: *Continuity and Change* 451 ff. (David L. Sloss, Michael D. Ramsey, and William S. Dodge, eds., 2011).
[35] Restatement (Fourth) of The Foreign Relations Law of the United States, Treaties, § 106, at 29 (Am. Law Inst., Discussion Draft, April 28, 2015).
[36] *Id*. at 30.
[37] Convention on the Elimination of All Forms of Discrimination Against Women, 1249 U.N.T.S. 13. *Available at:* https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-8.en.pdf.
[38] Convention on the Rights of the Child, 1577 U.N.T.S. 3. *Available at:* https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.
[39] International Covenant on Economic, Social, and Cultural Rights, 993 U.N.T.S. 3. *Available at:* https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en.
[40] *See generally,* University of Minnesota, Ratification of International Human Rights Treaties-USA. *Available at:* https://www1.umn.edu/humanrts/research/ratification-USA.html (last visited Sept. 30, 2015).
[41] *See*, *e.g*. Stephen Breyer, *The Court and the World*: A*merican Law and the New Global Realities* (2015). *See also generally* Miguel Gonzalez Marcos, *The Universal Declaration of Human Rights and Constitutional Adjudication,* 30 Hamline Journal of Public Law & Policy 245 (2008).
[42] U.S. Congressional Research Service. The U.N. Convention Against Torture: Overview of U.S. Implementation Policy Concerning the Removal of Aliens. (RL32276; Apr. 4, 2006), by Michael John Garcia.

II. Application of International Treaties by Judiciary

What is the common approach to the application of international treaties by the judiciary? Simple citation in court rulings and decisions, or using treaties for substantial matters?

Based on the analysis of a database he prepared of decisions dealing with treaties, David Sloss concludes that the Judiciary both engages in "substantive analysis of a treaty," and makes reference to treaties.[43]

Sloss categorizes how U.S. courts apply treaties following what he calls a nationalist or a transnational approach. The nationalist approach is based on the domestic understanding of treaties by the political branches for the interpretation of treaties, accepts that only self-executing treaties are law, and presumes that treaties do not create judicially enforceable individual rights.

The transnationalist approach is based on the international understanding for treaty interpretation, accepts that treaties usually become law, and that they might create judicially enforceable individual rights.

Empirical analysis of the database of decisions showed that "in litigation between private parties, courts are more likely to apply a transnationalist approach than nationalist approach. However, in cases where private parties are adverse to government actors, courts are more likely to apply a nationalist approach than a transnationalist approach."[44]

For examples of how the courts deal substantively with treaties, see *Bond v. United States*, 572 U.S. ___ (2014) (addressing the question whether the Implementation Act of the international Convention on Chemical Weapons "reaches a purely local crime"); and *Republic of Argentina vs. BG Group PLC* (DC Court of Appeals 2012).

[43] David Sloss, *supra* n. 3 at 515-18 (explaining how he designed a database of U.S. treaties). *See also generally* A. Hathaway, Sabria McElroy & Sara Aronchick Solo, *International Law at Home*: *Enforcing Treaties in U.S. Courts*, 37 Yale Journal of International Law 51 (2012); Johanna Kalb, *Human Rights Treaties in State Courts: The International Prospects of State Constitutionalism After Medellin*. 115 Penn State L. Rev. 1051, 1056 (2011) (indicating that based on "the *volume* of cases," state court engagement with human rights treaties is still minimal.").

[44] David Sloss, *supra* n. 3, at 505. This finding is based on a database created specifically for purposes of testing it, and the author claimed a 95 percent of reliability.

III. Application of International Treaties by Civil Trial Participants

How do civil trial participants (claimant and defendant, attorneys, prosecutors, etc.) apply international treaties?

The parties may invoke a treaty supporting their respective positions.[45] For example, in *Roper v. Simmons*, respondent Simmons cited to the United Nations Convention on the Rights of the Child to support his contention that the death penalty is a disproportionate punishment for sex offenders under 18.[46] Although Simmons acknowledges that the Supreme Court has not ratified the treaty, he uses it to support his position. Similarly, in *Brumant v. Lynch*, in her petition for a Writ of Certiorari, petitioner Brumant cites to the Universal Declaration of Human Rights as evidence of the "importance and severity of deportation as a punishment," while acknowledging that the provision, "is not a mandatory provision for [the Supreme] Court or any U.S. court to follow." [47]

IV. Application of International Treaties in Appeals Procedures

How are international treaties applied in appeal procedures of civil cases?

If a treaty is considered self-executing or is not self-executing but with domestic implementing legislation in place, appellate courts on civil cases will apply it to the case at hand. An appellate court may also use a non-binding treaty as supplemental support for their decision.

For example, the Board of Immigration Appeals, or BIA (an administrative body for interpreting and applying immigration laws) often considers whether the respondent has protection under the Convention Against Torture.[48] BIA decisions are reviewable by US federal courts.[49] Additionally, the Supreme Court in *Roper* (as well as the petitioner, as discussed above) cited to the (non-binding) Convention on the Rights of the Child, pointing out that the United States "now stands alone in a world that has turned its face against the juvenile death penalty."[50]

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[45] *See* David Sloss, *supra* n. 3 at 540 ff. (analyzing his database of judicial decisions he asked, "in what percentage of cases did the party invoking a treaty win the case."); *See also* Johanna Kalb, *supra* n. 15, at 1072 (arguing that "[t] he experience reflected in this study suggests that advocates should continue to raise alternative soft law uses for international human rights treaties in state courts [….as] arguments based on their persuasive value (as well as the persuasive value of the UDHR) seem to have gained more traction with state courts." *Id*.).

[46] 543 U.S. 551, 576 (2005).

[47] Petition for a Writ of Certiorari at 20*, Brumant v. Lynch*, No. 15-209 (Aug. 4, 2015).

[48] The United States Department of Justice, Board of Immigration Appeals. *Available at:* http://www.justice.gov/eoir/board-of-immigration-appeals.

[49] *See, e.g.,* Molina v. Lynch, 612 Fed.Appx. 476 (9th Cir. 2015); Yousif v. Lynch, 796 F.3d 622 (6th Cir. 2015); Cruz v. Lynch, 613 Fed.Appx. 662 (9th Cir. 2013).

[50] *Roper*, 543 U.S. at 577.

V. Role of the Supreme Court in Application of International Treaties

Does the Supreme Court or other designated judicial body issue Rules of Procedure or Resolutions on how to apply international treaties in the courts' practice?

The Supreme Court is the highest court of the Land, issuing decisions that are mandatory in both federal and state courts. Although the court does not issue procedural rules or resolutions guiding the application of international treaties, the court's decisions can have the same effect.[51] Some commentators argue that the most recent decision by the Supreme Court, the 2008 *Medellin v. Texas* increased the stringency of the test for determining whether a treaty is self-executing, or whether it requires a political act to become binding.[52] Additionally it is suggested that because, *Medellin* instructed that remedies for treaty violations are generally political, rather than judicial, " lower courts have been taking that message at face value and declining to exercise their remedial competences in treaty cases."[53]

[51] *See* Restatement (Fourth) of The Foreign Relations Law of the United States, Treaties, § 106, at 29 ff., esp. 31-3 (Am. Law Inst., Discussion Draft, April 28, 2015).
[52] John F. Coyle, *The Case for Writing International Law into the U.S. Code*, 56 B.C. L. Rev. 443 (2015).
[53] Lory F. Damrosch, *supra*, [___], 464. *See also* Paul R. Dubinsky, *United States*, *in International Law and Domestic Legal Systems*: *Incorporation, Transformation, and Persuasion* (Dinah Shelton, ed., 2011) (explaining the implications of *Medellín*, Dubinsky states that "[I]t is reasonably safe to say that in the future treaties will have a diminished role as source of rights within the US domestic legal system, at least when not accompanied by implementing legislation." *Id*. at 653).

Part III: Mexico

I. Implementation of International Treaties in Domestic Civil Lawsuits, Cases, and Litigation

Universal or Country Specific Models

Are there any universal or country specific models of application on UN conventions on human rights in the courts of domestic jurisdiction?

The Mexican Constitution, unlike the U.S. Constitution, expressly cautions that the principle of supremacy only applies to treaties that conform to it.[54] All conforming treaties that have been signed by the president and approved by the Senate are "the supreme law of the whole Union."[55]

However, Mexico's system does not require further implementing legislation for a treaty to be applied in the courts. Refusal to give effect to treaties on non-self-execution grounds is not a doctrine characteristic of Mexican courts.[56]

In general, treaties are superior to state and federal law, but inferior to the constitution.[57] The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW),[58] the Convention on the Rights of the Child (CRC),[59] and the International Covenant on Economic, Social, and Cultural Rights (ICESCR),[60] have been ratified by Mexico.[61]

A constitutional amendment of 2011 modified article 1 of the Mexican Constitution establishing that "all persons enjoy the human rights recognized in this Constitution and in the international treaties in which Mexico is a party, as well as of the guaranties to protect those rights."[62] Human rights must be interpreted favoring the "utmost protection" for the persons in light of the Constitution and of the international treaties. All authorities must exercise their competences observing, protecting, and guaranteeing the human rights in

[54] Mexican Const. Art. 133.
[55] *Id.*
[56] Jorge Cicero, "International Law in Mexican Courts." 30 Vand. J. Transnat'l L. 1035, 1042.
[57] *Id* at 1043.
[58] Convention on the Elimination of All Forms of Discrimination Against Women, 1249 U.N.T.S. 13.
[59] Convention on the Rights of the Child, 1577 U.N.T.S. 3.
[60] International Covenant on Economic, Social, and Cultural Rights, 993 U.N.T.S. 3.
[61] *See generally* University of Minnesota, Human Rights Library, Ratification of International Human Rights Treaties – Mexico, https://www1.umn.edu/humanrts/research/ratification-mexico1.html;
[62] Constitución Política de los Estados Unidos Mexicanos, CP, Diario Oficial de la Federacion [DOF] 5-02-1917, ultimas reformas DOF 10-07-2015 (Mex.), art.1.

conformity with the principles universality, interdependence, indivisibility, and progressivity.[63] Furthermore, the Mexican Supreme Court has indicated that all judges must exercise *sua sponte* a "*control de convencionalidad*" (control of conventionality) between the domestic norms and norms of international human rights treaties.[64]

II. Application of International Treaties by Judiciary

What is the common approach to the application of international treaties by the judiciary? Simple citation in court rulings and decision, or using treaties for substantial matters?

If the plaintiff has proper standing (as discussed below), the courts will directly address international treaties, either holding for the plaintiff (who's presumably claiming a violation of his or her rights) or holding that the treaty is unconstitutional.

Unlike judges in U.S. courts, Mexican judges do not confront a "non-self-executing" policy deterring the direct application of treaties in force in the land.[65]

Human rights treaties enjoy certain special status "given the character of their instruments of protection of such rights in favor of individuals"[66]

III. Application of International Treaties by Civil Trial Participants

How do civil trial participants (claimant and defendant, attorneys, prosecutors, etc.) apply international treaties?

The Mexican law of *amparo* requires that only parties directly injured by a treaty have standing for relief. Mexican law does not accord standing on the sole ground that a law or act may contradict supreme treaties. However, the affected party does have standing if they can show domestic laws or actions which contradict a supreme treaty injure due process and legality, or other constitutional guarantees.[67]

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[63] *See id. See also* Víctor Manuel Collí, Improving Human Rights in Mexico: Constitutional Reforms, International Standards, and New Requirements for Judges, https://www.wcl.american.edu/hrbrief/20/1ek.pdf

[64] *See* Suprema Corte de la Justicia de la Nación, Coordinación de Derechos Humanos y Asesoría de la Presidencia, Varios 912/2010, Caso Rosende Radilla Pacheco, 14 de Julio, 2011.

[65] Cicero, at 1042.

[66] *See* Jorge Ulises Carmona Tinoco, The Judicial Application of International Human Rights Treaties, Mexican Law Review, 2012.

[67] Cicero, at 1069.

District attorneys have standing to challenge *amparo* rulings that injure interest of the State. Injunctions against treaties, their enforcement, and treaty-based acts naturally present issues of public interest.[68]

Civil trial participants can bring a treaty controversy within a civil remedy or ordinary right of action, as a treaty controversy is within the regular jurisdiction of federal courts.[69] A case involving an international treaty can always be brought in local (non-federal) court at the choice of the plaintiff. However, if a case concerns interests beyond "private parties," the case falls within the exclusive domain of the federal judiciary.[70]

IV. Application of International Treaties in Appeals Procedures

How are international treaties applied in appeal procedures of civil cases?

The Mexican Constitution expressly provides for appeals through superior courts.[71] This concurrent jurisdiction clause further ensures the consideration of treaty controversies in high tribunals throughout the Mexican Republic.[72]

Like the lower court, the appeals courts have the power to find that a plaintiff has been damaged by the non-enforcement of a treaty or that the treaty is unconstitutional.

V. Role of the Supreme Court in Application of International Treaties

Does the Supreme Court or other designated judicial body issue Rules of Procedure or Resolutions on how to apply international treaties in the courts' practice?

Like the Supreme Court of the United States, the Supreme Court of Mexico has not issued any formal procedures or resolutions on treaty application. However, the Supreme Court of Justice in Mexico functions as a constitutional court. In this sense, the decision about the nature and scope of a treaty is mandatory and controls lower decisions nationally.[73]

[68] Cicero, at 1069.
[69] Cicero, at 1048.
[70] Mex. Const. art. 104, § I
[71] *Id.*
[72] Cicero, at 1048.
[73] *See generally* Jurisprudencia sobre las relaciones entre derecho nacional e internacional, https://www.scjn.gob.mx/Paginas/Inicio.aspx.

Part IV: Germany

I. Implementation of International Treaties in Domestic Civil Lawsuits, Cases, and Litigation

Universal or Country Specific Models

Are there any universal or country specific models of application on UN conventions on human rights in the courts of domestic jurisdiction?

All general rules of international public law are integral to the German legal order. According to Article 25 of the German Constitution, or *Grundgesetz für Bundesrepublik Deutschland* (the Basic Law of the Federal Republic of Germany), "[T]he general rules of international law shall be an integral part of federal law. They shall take precedence of the laws and directly create rights and duties for inhabitants of the federal territory."[74]

Under the prevailing interpretation of Article 59 of the Grundgesetz, duly ratified treaties are part of German law.[75] The Grundgesetz also allows for the Federal Constitutional Court to decide whether international law (not international treaties) directly creates rights and duties for the individual.[76] However, this prerogative does not extend to treaty law. Rather, claims regarding the applicability of a treaty provision can be brought before the courts pursuant to the same rules as domestic legal order. Thus, in principle, the role of courts in enforcing treaties is no different from the judicial role in enforcing domestic laws. In practice, however, the Federal Constitutional Court accords greater latitude to the federal government in matters involving international affairs, including international human rights law.[77]

The rank of a treaty within the domestic legal systems depends on the process used to authorize ratification. Treaties concluded with legislative consent have a status equal to that of domestic legislation. In contrast, treaties ratified without legislative consent have a lower rank.[78]

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[74]Basic Law for the Federal Republic of Germany, Federal Law Gazette, as last amended by the Act of 11 July 2012.
[75] David Sloss, Treaty Enforcement in Domestic Courts, 7, 2009. *Available at*: http://law.scu.edu/wp-content/uploads/Introduction20Jan_202009.pdf.
[76] Basic Law for the Federal Republic of Germany, Article 100 (Concrete Judicial Review).
[77] Andreas L. Paulus, The Role of Domestic Courts in Treaty Enforcement 221-2.
[78] Sloss, supra n. 2 at 8.

In 1985, the Federal Republic of Germany ratified the Convention on Elimination of All Forms of Discrimination against Women (CEDAW). The provisions of the Convention are directly valid law in Germany.[79]

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was also ratified by Germany[80], as was the Convention of the Rights of the Child (CRC). However, Germany made it clear that the CRC was not self-executing by making the following sweeping statement: "The Federal Republic of Germany also declares that domestically the Convention does not apply directly. It establishes state obligations under international law that the Federal Republic of Germany fulfills in accordance with its national laws, which conform with the Convention.[81]"

Finally, Germany's membership in the European Union has important implications for its domestic application of international law. The European Court of Justice has ruled that "international regulations in areas where the European Union exercises jurisdictions are automatically part of EU legal order." This means that international law is worked into EU members' domestic law both directly (by their own initiative), and also indirectly, "because international obligations that form part of the European legal order are binding on member states as an element of core Community law."[82]

II. Application of International Treaties by Judiciary

What is the common approach to the application of international treaties by the judiciary? Simple citation in court rulings and decision, or using treaties for substantial matters?

Like U.S. courts, German courts recognize the distinction between self-executing and non-self-executing treaties. A self-executing treaty is invocable by private parties and can be applied directly by the courts. If a treaty grants rights to private parties and imposes corresponding duties on the State, the courts will enforce those rights on behalf of an aggrieved individual.[83]

Also, German courts might refer to a treaty "as an aid to interpretation of a domestic constitutional or statutory provision," particularly when dealing with rights set forth in the European Convention of Human Rights and Fundamental Freedoms and the decisions by

[79] United Nations CEDAW, Germany, November 4, 1996. *Available at*: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N96/301/43/PDF/N9630143.pdf?OpenElement.
[80] http://www2.fzs.de/uploads/sozialpakt_innenteil_en.pdf.
[81] http://www.loc.gov/law/help/child-rights/germany.php.
[82] Sloss at 11.
[83] Sloss at 9.

European Court of Human Rights. The court might also apply a treaty indirectly to promote compliance with international obligations.[84]

III. Application of International Treaties by Civil Trial Participants

How do civil trial participants (claimant and defendant, attorneys, prosecutors, ect.) apply international treaties?

German courts work from the assumption that treaties should be interpreted following international law. Yet, "the interpretation of multilingual treaties will raise difficulties. The questions of interpretation will therefore often be framed by plaintiffs or defendants in a particular case."[85]

Taking into account that the experience of the lower courts might be limited on international law, "it will be helpful if the interested parties raise the issue before the courts."[86]

"A treaty can only be invoked and enforced in litigation by private parties if the specific treaty provision invoked has a direct effect."[87]

IV. Application of International Treaties in Appeals Procedures

How are international treaties applied in appeal procedures of civil cases?

As discussed above, if a treaty is self-executing and a proper claim is brought by a plaintiff, courts at all levels (including appeals courts) must substantively apply the treaty law.

V. Role of the Supreme Court in Application of International Treaties

Does the Supreme Court or other designated judicial body issue Rules of Procedure or Resolutions on how to apply international treaties in the courts' practice?

The Federal Constitutional Court, via its decisions, provides guidance to the lower courts about treaty interpretation. When a treaty is held unconstitutional, it cannot be applied by courts. In general, German courts will advance interpretations observing the treaty obligations, but "if the will of legislature is clear and the wording of the statute

[84] Sloss at 10.
[85] Hans-Peter Folz, *Germany, in International Law and Domestic Legal Systems: Incorporation, Transformation, and Persuasion*, 240, 244 (Dinah Shelton ed. 2011).
[86] Id. at 245.
[87] Id. at 243-44.

unambiguous, the courts will apply the later statute even if it is in contravention of the treaty."[88]

German national norms, following consistent jurisprudence by the Federal Constitutional Court, have to be interpreted in accordance with international law. This unwritten constitutional principle is called the commitment of the Basic Law to International Law.[89] Specifically, the German legal order must be construed in accord to the European Convention on Human Rights (ECHR), [but] "if provisions of the Basic Law clearly and unambiguously deviate from the ECHR as interpreted by the European Court of Human Rights, and a conflict cannot be avoided, the constitution outranks the ECHR."[90] On this point, the jurisprudence of the Constitutional Court has been constant.

[88] Hans-Peter Folz, supra n. 13 at 245.
[89] Id. at 245-46.
[90] Id. at 246. *See generally* Library of Congress, The Impact of Foreign Law on Domestic Judgements: Germany.

Annex A: Biographies

Richard Langan

Richard Langan is a lawyer and senior consultant with 22 years of combined law practice and international development experience. He has served as a team leader of numerous evaluations of United Nations' Rule of Law and Access to Justice Programming—including its development programmes in Iraq, Jordan, Palestine, Maldives, Kyrgyzstan, Liberia, Nepal, Serbia, Sudan and Vietnam. Mr. Langan has additionally advised the United States Agency for International Development, the Organization for Security and Cooperation in Europe and the Open Society Institute. He holds a Master of Laws (LL.M.) in International, Foreign and Comparative Law from Columbia University School of Law and a Juris Doctor degree (J.D.) from Tulane University School of Law; and is a frequent contributor to the work of ABA-ILRC. More information about his international law practice can be found at: Http://www.langan-law.com.

Teng Feng

Teng Feng is a legal intern at Prison Justice League in Austin, Texas. His work includes legal research and writing on a variety of issues such as access to prison law library, sexual assault in prison, federal jurisdiction and so on. Teng is passionate about constitutional design and international human rights. Prior to joining Prison Justice League, Teng worked in China on domestic commercial litigations.

Teng graduated from the University of Texas School of Law in 2015 with an LL.M. degree. Teng received his Bachelor degree in International Law from East China University of Political Science and Law.

Miguel González Marcos

Miguel González Marcos is trained in law. He holds degrees from Johann Wolfgang Goethe Universität (Ph.D.); Montpellier 1 University, France (Diplôme d'Université in International Nuclear Law); New York University (LL.M.); State University of New York at Buffalo (J.D.); and Universidad de Panamá (LL.B.). Prof. González has been a legal and policy consultant for the Heinrich Böell Foundation; the Comprehensive Nuclear Test Ban Treaty Organization Preparatory Commission; and a research fellow at the Human Rights Center at the University of Minnesota Law School. He was previously Professor at the University of Panama School of Law; Director of the Institute of National Studies, Panama; and attorney in the international group at the law firm Faegre & Benson. His publications cover constitutional analysis, international law and policy, and legal reform and governance issues. Current research interests include ethics and compliance, comparative and constitutional law, and international law and policy.