In South-East Asia, non-common law countries such as the Philippines and Indonesia have adopted a monist approach to treat international treaties as part of the national legal system upon ratification or accession. Common law countries that were colonized by the British generally have subscribed to a dualist approach where international law is not considered part of domestic law without an act of Parliament. However, over the years, this dualist legal tradition has been waning even in common law countries.[24]

The Bangalore Principles on the Domestic Application of International Human Rights Norms (1988) recognized that fundamental human rights are inherent in humankind, and as such could provide guidance for judges in deciding cases concerning basic rights and freedoms. While it acknowledged that international rules are not directly enforceable in most countries of common law unless expressly incorporated into domestic law by legislation, Principles 4 and 7 also acknowledged that "it is within the proper nature of the judicial process and well-established judicial functions for national courts to have regard to international obligations which a country undertakes – whether or not they have been incorporated into domestic law – for the purpose of removing ambiguity or uncertainty from national constitution, legislation or common law" or if the national law is uncertain or incomplete.[25]

Expounding on the Bangalore Principles, Justice Michael Kirby, former Justice of the High Court of Australia, enumerated guidelines for the domestic enforceability of international law in his groundbreaking article on the Australian use of international human rights norms:

- international law (whether human rights norms or otherwise) is not part of domestic law in most common law countries;
- "it does not become part of such law until Parliament so enacts or the judges (as another source of lawmaking) declare (it) domestic law";
- The judge will not declare international laws to be domestic laws automatically, simply because the norm is part of international law or is mentioned in a treaty, even one ratified by their own country;
- "But if the issue of uncertainty arises (as by a lacuna in the common law, obscurity in its meaning or ambiguity in a relevant statute) a judge may seek guidance in the general principles of international law, as accepted by the community of nations.... It is the action of the judge, incorporating the rule into domestic law, which make i[t] part of domestic law." (emphasis supplied)[26]

An international convention, in effect, may play a part in the development of the common law by the courts. As upheld in other Australian cases, "where a statute or subordinate legislation is ambiguous, the courts should favour the construction which accords with Australia's obligations under a treaty or international convention to which Australia is a party." (Chu Kung Lim v. Minister for Immigration, Local Government & Ethnic Affairs [1992] 176 CLR1) It is accepted that a statute is to be interpreted and applied, as far as its language permits, so that it is in conformity and not in conflict with the established rules of international law. (Polites v. The Commonwealth)[27]

24. Ibid.
25. Bangalore Principles on the Domestic Application of International Human Rights Norms, 1988
26. Kirby, Michael, 'The Australian Use of International Human Rights Norms: From Bangalore to Balliol – A View from the Antipodes,' The University of New South Wales Law Journal (UNSWLJ), Volume 16(2),1993,
27. Cited in Noorfadilla Ahmad Saikin v. Chayed bin Basirun & Others, Malayan Law Journal, 1 MLJ, 2012