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***International  
Law***

# International Law

consists of rules and principles which govern the relations and dealings of nations and other international entities with each other

<b>PUBLIC INTERNATIONAL LAW</b> (Law of nations)	<b>PRIVATE INTERNATIONAL LAW</b> (Conflict of Laws)	<b>SUPRANATIONAL LAW</b>
<p style="text-align: center;">↓</p> <p>-relations between several nations or -nations and the citizens or subjects of other nations (<b>sources:</b> customary law and conventional agreements – treaties, conventions, charters, judicial decisions, judicial writings)</p>	<p style="text-align: center;">↓</p> <p>-conflicts between private persons, natural or artificial, arising out of situations having relationship to more than one nation (<b>sources:</b> a branch of internal law – national and customary law)</p>	<p style="text-align: center;">↓</p> <p>-the law of supranational organizations (regional agreements – <i>European Union law</i> - the first and only example of a supranational legal framework)</p>

# SUBJECTS OF INTERNATIONAL LAW

## IN THE PAST

- *STATE* – the sole subject till the creation of the United Nations (international law only applied between states)
- 1949- the International Court of Justice – confirmed that other entities could be subjects of international law

## NOWADAYS

- 1) States
- 2) Inter-governmental Organizations  
(constituted by States and have States as their members and are based on constitutive treaty – e.g. the United Nations)
- 3) The Individual
- 4) Multi-national Corporations

- possess  
rights and  
duties on the  
international  
plane





# PUBLIC INTERNATIONAL LAW or INTERNATIONAL PUBLIC LAW

- authority of international law is dependent upon the voluntary participation of states in its formulation, observance, and enforcement
- - involves e.g. the United Nations, maritime law, international criminal law and the Geneva conventions
- it has increased in use and importance over the last century due to
  - a) the increase in global trade
  - b) armed conflicts
  - c) worldwide environmental deterioration
  - d) awareness of human rights violations
  - e) increases in international transportation
  - f) boom in global communications

# SOURCES OF PUBLIC INTERNATIONAL LAW

## I Primary sources

- 1) **Customary law** – states follow certain practices generally and consistently out of a sense of legal obligation
- 2) **Conventional Law** – derives from national agreements (bilateral or multilateral)
  - established by
    - A) **the United Nations**
      - advisory standards  
(the Universal Declaration of Human Rights)
    - B) through **international treaties** e.g.
      - the Geneva Conventions on the conduct of war or armed conflict
      - The World Health Organisation
      - UNESCO
      - The World Trade Organisation
      - The International Monetary Fund etc.

## II Secondary source

- general principles common to systems of national law

# Hierarchy of Sources

- **International treaties**
- **International customary law**  
(until 20th century constituted the main body of international law)
- **General principles**  
(eg. rule of good faith, the principle of a state's responsibility for all its agents, the doctrine of necessity and self-defense etc.)
- **Judicial decisions and writings**  
(previous decisions examined and taken into account by ICJ – no *stare decisis*; writers highlight the areas in need for international regulation)
- **SOFT LAW – treaties which are non-binding eg. The Universal Declaration of Human Rights (1948)**



# Primary areas of international law

International Economic Law

International Environmental Law

International Criminal Law

International Human Rights

International Commercial Law

Law of the Sea

etc.

# Primary Documents of International Law

- Draft Declaration on Rights and Duties of States
- Charter of Economic Rights and Duties of States
- Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations
- Optional Protocol to the Vienna Convention on Consular Relations Concerning Acquisition of Nationality
- United Nations Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents
- Vienna Convention on Diplomatic Relations
- Statute of the International Court of Justice
- Charter of the United Nations
- Vienna Convention on Consular Relations
- Optional Protocol to the Vienna Convention on Consular Relations Concerning the Compulsory Settlement of Disputes
- Etc.





# CONCERNS OF PUBLIC INTERNATIONAL LAW

- group rights,
- the treatment of aliens,
- the rights of refugees,
- international crimes,
- nationality problems, and human rights generally
- the maintenance of international peace and security
- arms control,
- the pacific settlement of disputes and the regulation of the use of force in international relations
- global environment,
- world trade,
- global communications



# ENFORCEMENT OF PUBLIC INTERNATIONAL LAW

- no compulsory judicial system; acceptance of its jurisdiction – based on consent, voluntary; no international executive or legislative
- judicial tribunals in certain areas (e.g. trade, human rights) – **the International Criminal Court (ICC)**
- enforcement through the UN Security Council (violation of the Charter) – **the International Court of Justice (ICJ)**

# The International Law Commission (ILC)

- was established by the General Assembly, in 1947, to undertake the mandate of the Assembly, under article 13 (1) (a) of the Charter of the United Nations to:
    - promote the codification of international law
    - solve problems within both public and private international law
    - make recommendations as to which issues required to be addressed in international law and the steps desirable to that end
  - draft proposals for international conventions on various issues (the commission formulates a plan of work and receives written opinions from governments on the issue in question; final draft is submitted to the General Assembly)
  - consider questions of international law; submit recommendations for actions to the General Assembly for final approval
- work on the initiative of
- a government,
  - an inter-governmental organization,
  - the General Assembly or
  - their own



# Treaty, convention and charter

## Treaty

"Treaty" means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation; Bilateral treaties, Multilateral treaties – (Vienna Convention on the Law of Treaty 1969) - if ratified binding on the parties

## Charter

Charters are constituent treaties of international organizations ( an institution or committee); they're the guiding rules and regulations for the functioning of that institute and also might lay down certain limitations for outsiders or participating countries (Definition of key terms used in the UN Treaty Collection)

Eg. UN Charter, ICJ Charter

## Convention

1. (broader meaning ) all international agreements
2. ( specific meaning) formal multilateral treaties with a broad number of parties; open for participation by the international community as a whole, or by a large number of states. Usually the instruments negotiated under the auspices of an international organization (e.g. Convention on Biological Diversity of 1992, United Nations Convention on the Law of the Sea of 1982, Vienna Convention on the Law of Treaties of 1969) (Definition of key terms used in the UN Treaty Collection)



*Look at the following legal areas and classify them into Public International Law or Private International Law*

adoption      arms control      asylum  
contractual relation      divorce      environmental issues      human rights  
immigration      international crime      maritime law      piracy  
war crimes

*PUBLIC INTERNATIONAL LAW*

*PRIVATE INTERNATIONAL LAW*

*environmental issues*

*adoption*

# Legal character of international law

## INTERNATIONAL LAW

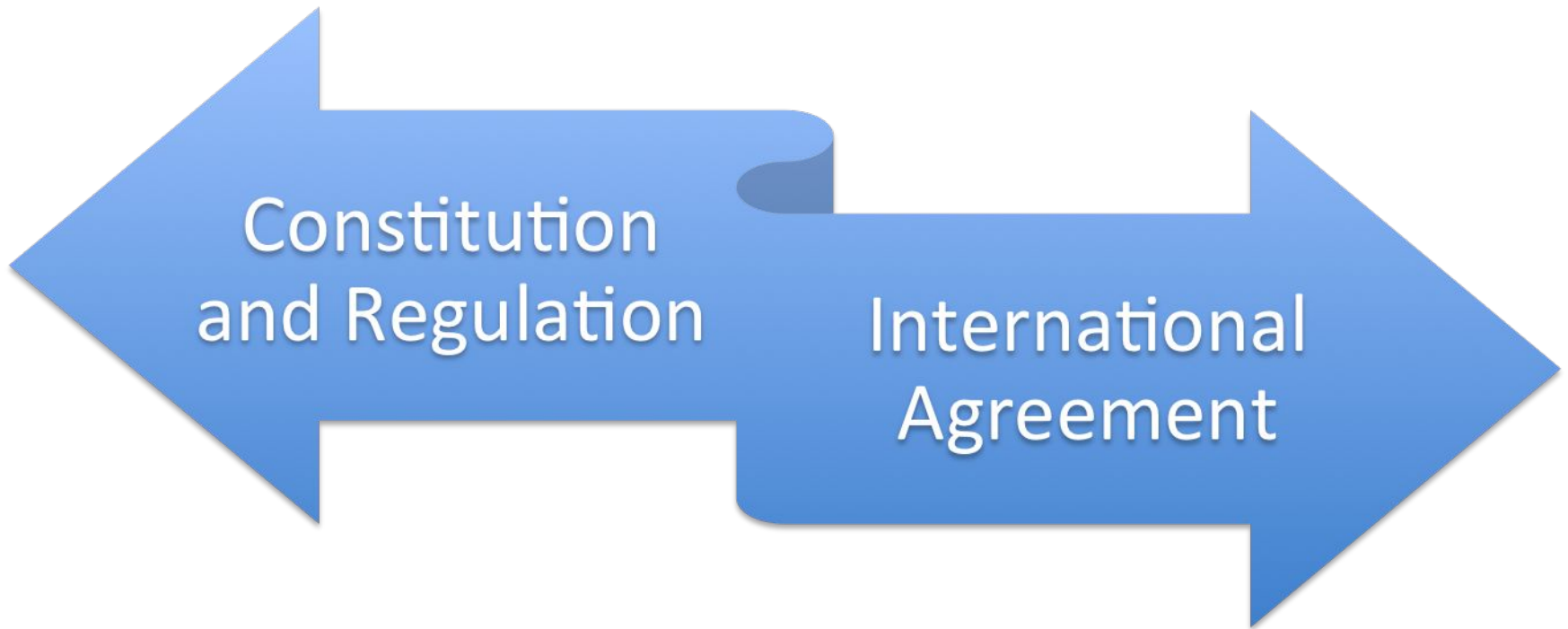
– branch of ethics or a branch of law?

**International morality**

**vs**

**legalism**

# Binding Power of International Law





***Read the text and complete the following statements.***

In practice questions of international law are treated as **legal** questions by \_\_\_\_\_ and in the national and international \_\_\_\_\_.

**Legal** forms and methods are also used in \_\_\_\_\_ and in \_\_\_\_\_ and \_\_\_\_\_ proceedings.





***Answer the questions.***

- *Task 1 - Which characteristics of international law speak, according to some theorists against its legal character?*
- *Task 2 - What are, according to the author the only essential conditions for the existence of law?*

# Make nouns out of verbs.

- To adopt a treaty
- To sign a treaty
- To ratify a treaty
- To accede to a treaty
- To enter into force
- To approve a treaty
- To accept a treaty

***What means what in the treaty-making process?  
Match the terms with their definitions.***

ADOPTION	is the act whereby a state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states. It has the same legal effect as ratification. It usually occurs after the treaty has entered into force.
ACCEPTANCE / APPROVAL	a time when a treaty becomes legally binding on the parties to the treaty
ACCESSION	is the formal act by which the form and content of a proposed treaty text are established. It takes place through the expression of the consent of the states participating in the treaty-making process.
ENTRY INTO FORCE	the international act whereby a state indicates its consent to be bound to a treaty. This institution grants states the necessary time-frame to seek the required approval for the treaty on the domestic level (done by national legislatures).
RATIFICATION	has the same legal effect as ratification and consequently express the consent of a state to be bound by a treaty. In the practice of certain states it has been used instead of ratification when, at a national level, constitutional law does not require the treaty to be ratified by the head of state.
RESERVATION	Signing of a treaty by a representative of a state by which the signatory state expresses the willingness to continue the treaty-making process.
SIGNATURE	is a declaration made by a state by which it wants to exclude or alter the legal effect of certain provisions of the treaty in their application to that state. It enables a state to accept a multilateral treaty as a whole by giving it the possibility not to apply certain provisions

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(Glossary of terms)