International Law and Municipal Law

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1. Introduction

International law governs relations between states and international entities, whereas municipal law (also called domestic or national law) governs individuals and legal matters within a state. Understanding their relationship is essential in public international law.

2. Theories Explaining the Relationship Between International and Municipal Law

a) Monism

- Monism holds that international law and municipal law are part of a single unified legal system.

- International law automatically becomes part of domestic law without requiring any special act.

- Priority in monism can vary:

- *Kelsen's Monism:* International law is superior.

- *State-Centered Monism:* Municipal law may be considered superior.

b) Dualism

- Proposed by Triepel and Anzilotti.

- International law and municipal law are two separate and distinct legal systems.

- International law governs state-to-state relations; municipal law governs individual conduct.

- International law must be incorporated through legislation to be enforceable domestically.

c) Harmonization Theory

- Suggests that although the two systems are distinct, they should function harmoniously.

- States must interpret domestic law in a way that aligns with international obligations.

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3. Importance of International Law

- Maintains global peace and security.

- Regulates diplomatic relations.

- Facilitates international trade, treaties, and cooperation.

- Protects human rights.

- Provides legal frameworks for war, environment, and global commons.

4. Importance of Municipal Law

- Ensures peace, order, and good governance within the state.

- Protects individual rights and provides mechanisms for justice.

- Regulates institutions, public administration, and enforcement.

- Implements international obligations domestically.

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5. Differences Between International Law and Municipal Law

a) Sources

- International Law: Treaties, customs, general principles of law, ICJ decisions, jurists' writings.

- Municipal Law: Constitution, statutes, regulations, judicial decisions.

b) Subjects

- International Law: Primarily states and international organizations.

- Municipal Law: Individuals, groups, corporations, and state agencies.

c) Enforcement

- International Law: Lacks centralized enforcement; relies on state consent and international bodies.

- Municipal Law: Enforced by courts, police, and administrative agencies.

d) Nature

- International Law: Horizontal system based on equality of states.

- Municipal Law: Vertical system with hierarchical authority.

e) Creation of Rules

- International Law: Through treaties and customs based on consent of states.

- Municipal Law: Through legislation created by parliament or domestic authority.

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6. Conclusion

International law and municipal law, though different in nature and operation, interact closely. Their relationship is explained by theories like monism and dualism. Both are essential for global order and domestic governance.