# INTERNATIONAL LAW AND MUNICIPAL LAW

*By*

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## 1. Introduction

Law is a system of rules that regulates the conduct of individuals and institutions within a given society. It can exist at both the **national** (municipal or state) level and the **international** level.

Understanding the **relationship between international law and municipal law** is essential because both govern the behavior of states and individuals, yet operate in distinct legal domains.

- Municipal Law (State Law): Operates within the boundaries of a state and governs the rights and duties of individuals, institutions, and the government.
- International Law: Operates among states and international actors, setting out the principles that regulate their mutual relations.

The interaction between the two legal systems—how international norms are applied or incorporated into domestic legal orders—is a foundational issue in legal theory.

## 2. Definition of International Law

**International law** is a body of legal rules, principles, and norms that regulate relations between sovereign states, international organizations, and, in limited cases, individuals.

### Key definitions:

- **Oppenheim:** "International Law is the body of customary and conventional rules that are considered legally binding by civilized states in their relations with each other."
- **Article 38(1) of the Statute of the International Court of Justice (ICJ)** identifies sources of international law as:
    - Treaties and conventions
    - Customary international law
    - General principles of law recognized by civilized nations
    - Judicial decisions and teachings of jurists (subsidiary sources)

### Purpose:

To promote peace, stability, human rights, trade, and cooperation among states.

## 3. Definition of Municipal (State) Law

**Municipal law**, also called **domestic law**, refers to the laws that operate within a state and regulate relations among its citizens and between citizens and the government.

### Key definitions:

- **John Austin:** "Law is a command of the sovereign backed by sanctions."
- It includes **constitutional law, criminal law, civil law, administrative law**, etc.
- Enforced by **national courts**, **legislatures**, and **executive bodies**.

### Scope:

Municipal law governs:

- Rights and duties of individuals
- Operation of public institutions
- Enforcement of state authority

## 4. Relationship Between International Law and Municipal Law

The relationship concerns **how and to what extent international law becomes part of domestic law** or how conflicts between the two are resolved.

Two principal theories dominate this debate:
**Monism** and **Dualism**, followed by derivative theories like **Specific Adoption**, **Transformation**, and **Delegation** theories.

## 5. Theories Explaining the Relationship

### (A) Monistic Theory

#### Core Idea:

International law and municipal law form a **single legal system**. International law automatically becomes part of national law without further legislative action.

#### Key Points:

- Both laws derive from a single source — the concept of law itself.
- International norms are binding on individuals and states alike.
- No need for transformation or incorporation by domestic legislation.

#### Main Proponents:

- **Hans Kelsen**
- **Hersch Lauterpacht**
- **Verdross**

#### Example:

In the Netherlands and France, international treaties are directly applicable in domestic courts.

#### Criticism:

- Undermines **state sovereignty** by allowing external norms to override domestic law.
- Difficult to apply where constitutions explicitly require legislative approval for treaties.

### (B) Dualistic Theory

#### Core Idea:

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

A rule of international law does **not automatically apply** domestically unless it is **transformed or incorporated** through legislation.

### Key Points:

- International law governs relations between states.
- Municipal law governs individuals within a state.
- There must be a deliberate act of adoption for international norms to have effect internally.

### Main Proponents:

- **Triepel (Germany)**
- **Anzilotti (Italy)**

### Example:

In the **United Kingdom**, international treaties do not automatically become part of domestic law unless enacted by Parliament.

### Criticism:

- Creates a gap between international obligations and domestic enforcement.
- May lead to violations of international commitments if the state fails to legislate incorporation.

## (C) Specific Adoption Theory

### Core Idea:

A **specific act of adoption** by the legislature is required to make international law operative in domestic law.

### Explanation:

- Treaties are not self-executing; they must be enacted as statutes.
- Customary international law may be recognized, but treaty law requires adoption.

### Example:

Common law countries (e.g., India, UK) follow this approach.

### Criticism:

- Slows down the implementation of international norms.
- Leaves much discretion to domestic political bodies.

## (D) Transformation Theory

### Core Idea:

International law must be **transformed** into domestic law by specific legal processes before it can take effect internally.

### Key Points:

- Transformation ensures compatibility with national legal structures.
- Each state decides its own transformation mechanism.

### Main Proponent:

- **Anzilotti** (also a dualist)

### Example:

The **European Convention on Human Rights (ECHR)** became enforceable in the UK only after the **Human Rights Act 1998** transformed it into domestic law.

### Criticism:

- May cause delays in compliance with international obligations.
- Leads to inconsistency between international and national interpretations.

## (E) Delegation Theory

### Core Idea:

International law gives **delegated authority** to states to determine how international obligations are implemented domestically.

### Explanation:

- International law binds states to achieve certain results but delegates the **method** of implementation to national authorities.
- Emphasizes cooperation and flexibility.

### Criticism:

- May lead to non-uniform implementation.
- Allows states to avoid accountability through domestic loopholes.

## 8. Difference Between International Law and Municipal Law

| Basis of Difference | International Law | Municipal (State) Law |
|---|---|---|
| Scope | Governs relations among states and international entities | Governs individuals and institutions within a state |
| Source | Treaties, customs, general principles of law | Constitution, legislation, judicial precedents |
| Subjects | States, international organizations, sometimes individuals | Citizens, legal persons, and the state |
| Enforcement | Lacks a centralized enforcement authority; depends on consent of states | Enforced by national courts and authorities |
| Creation | Created by agreement and custom among states | Created by legislative and judicial bodies |
| Sanctions | Political, diplomatic, or economic sanctions | Judicial penalties and punishments |
| Nature | Primarily consensual | Compulsory |

| Basis of Difference | International Law | Municipal (State) Law |
| --- | --- | --- |
| Example | United Nations Charter, Geneva Conventions | Penal Code, Civil Procedure Code, Constitution |

## 9. Conclusion

The interaction between **international law and municipal law** reflects the balance between **state sovereignty and global cooperation**. While **monistic** and **dualistic** theories represent two opposing poles, modern practice often blends them — seeking harmony rather than conflict.

In today's globalized world, **no state operates in isolation**. Issues such as human rights, environment, and trade demand coordination between international and domestic legal systems. Therefore, the **trend is toward integration**, ensuring that municipal law aligns with international commitments while preserving constitutional autonomy.