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IL VS ML

➢ Introduction:

International Law (IL) is the set of rules that governs the relations between countries and ensures peace, cooperation, and justice at the global level. It is created through treaties, conventions, and customs, and applies to states and international organizations. Municipal Law (ML), on the other hand, is the internal law of a country that regulates the behavior, rights, and duties of individuals and institutions. Both IL and ML are essential for maintaining order, resolving disputes, and protecting rights at international and domestic levels.

➢ What is International Law?

International law is a set of rules, principles, and standards that govern the relations between states and other international actors such as international organizations, multinational companies, and sometimes individuals. It helps maintain peace, stability, cooperation, and justice at the global level.

Examples:

- United Nations Charter

Rules that all member countries must follow to maintain international peace and security.

- Geneva Conventions

International rules that protect civilians, prisoners of war, and wounded soldiers during armed conflict.

➢ What is Municipal Law?

Municipal law refers to the internal law of a country. It is the body of rules and regulations that govern the rights and duties of people living within a state.

Examples:

Criminal law ,Civil law, Family law, Constitutional law etc. These laws apply **only inside the country** that created them.

➢ Relationship Between International Law and Municipal Law

- **Separate Legal Systems**

IL and ML operate independently. IL works at the global level, and ML works within a country. However, they influence each other in practice.

- **Source of Law**

IL comes from treaties, customs, and international court decisions. ML comes from constitutions, statutes, judicial decisions, and administrative rules. International obligations often influence domestic legislation.

- **Conflict Between IL and ML**

Sometimes, international rules and domestic laws contradict each other. How this conflict is resolved depends on the country's legal system and its willingness to follow international obligations.

- **Implementation**

International law depends on municipal law for enforcement. For example, a human rights treaty is effective in a country only when domestic laws provide mechanisms to implement it.
Municipal law is enforced by courts, police, and administrative authorities. International law is enforced by international courts, sanctions, and diplomatic pressure. The two systems work together for effective enforcement.

- **Influence of ML on IL and IL on ML**

Domestic laws shape international law by creating state practice and helping develop customary international rules. National legal systems are crucial in making international law effective.
International law influences domestic law by guiding legislation, court decisions, and administrative practices. Treaties and international obligations often become part of municipal law.

- **Accountability:**

The relationship ensures that states are accountable both internationally and domestically. Municipal law provides remedies for breaches, while international law holds states responsible globally.

➢ Theories about it:

1. Monistic Theory :

The Monistic Theory says that international law (IL) and municipal law (ML) are part of a single, unified legal system. According to this theory, there is no fundamental distinction between the two; international law automatically applies within a country without needing new domestic legislation.

- **Single Legal System:**
  IL and ML are not separate. They belong to one system where international law is automatically part of national law.
- **Direct Applicability:**
  International treaties, customs, and norms can be enforced in domestic courts without requiring separate legislation.
- **Supremacy of International Law:**
  If there is a conflict between IL and ML, international law prevails over domestic law.
- **Global Perspective:**
  The theory emphasizes universal legal order, where global law is above national law to ensure harmony between nations.
- **Judicial Recognition:**
  Courts in monist countries can directly apply international law and provide remedies based on it.

Examples:

- Netherlands: Treaties signed by the country automatically become enforceable in domestic courts.

- Germany: International law is directly applied in domestic law, and national courts recognize international obligations without new legislation.

2. Delegation Theory:

The Delegation Theory (also called the Representation Theory) explains the relationship between International Law (IL) and Municipal Law (ML) by saying that a state delegates some of its powers to international law.

- **State as the Source of IL:**

International law exists because states agree to it. The state delegates some authority to international law, but it remains in control.

- **Dependent on State Will:**

IL is effective only when the state consents. States decide which international obligations they accept.

- **Limited Scope:**

The theory applies mainly to treaties, agreements, and conventions. States choose which areas of law to delegate.

- **Maintains Sovereignty:**

Unlike monism, the state does not lose control. The state can revoke or modify its delegation.

- **Implementation via Municipal Law:**

Delegated powers in international law usually require domestic legislation to be enforceable internally.

Example:

- When Pakistan signs an international treaty, it delegates authority to follow certain rules internationally.
- But the treaty must be approved by parliament to become enforceable under municipal law.

3. Dualism Theory:

The Dualism Theory says that International Law (IL) and Municipal Law (ML) are two separate and independent legal systems. According to this theory, international law does not automatically apply inside a country. It only becomes effective when the state passes domestic legislation to implement it.

- **Two Separate Systems:**
  IL governs relations between states.
  ML governs individuals and institutions within a state.
  They operate independently and have separate rules and enforcement.
- **No Automatic Applicability:**
  International treaties, customs, or conventions **cannot be applied directly** in domestic courts.
  Parliament or legislature must **convert IL into municipal law** for enforcement.
- **State Sovereignty:**

Dualism emphasizes the **supreme authority of the state**.
International law only applies internally if the state allows it.

- **Conflict Handling:**
  If domestic law conflicts with international law, **municipal law prevails internally**.
  However, at the international level, the state may still be held responsible for violations.

Examples:

- Pakistan, India, and the United Kingdom follow Dualism.

4. Transformation (Specific Adoption) Theory:

The Transformation Theory, also called the Specific Adoption Theory, states that international law does not automatically become part of municipal law.
It becomes effective only when the national legislature transforms or adopts it through domestic legislation.

- **No Automatic Applicability:**

Treaties, conventions, or international customs cannot be enforced in domestic courts until the state passes a law adopting them.

- **Focus on Legislative Action:**

The domestic legislature must specifically adopt international rules for them to have legal effect internally.

- **Preserves State Sovereignty:**

The state retains full control over which international rules are applied in domestic law.

- **Clarity and Certainty:**

Only rules that have been transformed are enforceable domestically. This avoids confusion between international and domestic obligations.

Example:

- If Pakistan signs an international environmental treaty, it **needs a domestic law passed by parliament** to implement it inside the country.
- Without such a law, the treaty cannot be enforced in domestic courts.

5. Harmonization Theory :

The Harmonization Theory states that international law (IL) and municipal law (ML) are independent systems, but the goal is to bring them into harmony wherever possible. It focuses on cooperation and alignment between domestic law and international obligations.

- **Independent Systems:**

IL governs relations between states.
ML governs people and institutions within a country.
Both operate independently but can be aligned.

- **Coordination:**

Municipal law should be adjusted, if necessary, to **comply with international law**.
International law should be interpreted in a way that respects domestic legal principles.

- **No Automatic Supremacy:**

Unlike Monism, IL does not automatically override ML.

Unlike Dualism, it encourages cooperation and adaptation rather than complete separation.

- **Promotes Legal Consistency:**

Harmonization ensures that domestic laws do not conflict with international obligations.

It reduces legal disputes between states and citizens regarding international law.

Example:

- Environmental laws in a country may be updated to **reflect global climate agreements**.
- Human rights legislation may be amended to align with international standards.

➢ Importance of IL and ML:

International Law (IL) and Municipal Law (ML) are both essential for maintaining order and justice. IL regulates relations between states, promotes international cooperation, protects human rights, and provides rules for resolving conflicts peacefully. It also helps manage global issues like trade, environment, and security. Municipal Law, on the other hand, governs the conduct of individuals and institutions within a country, ensuring law and order, protecting citizens' rights, and regulating government powers. It provides mechanisms to resolve disputes and supports social, economic, and political stability. Together, IL and ML create a system that maintains harmony both internationally and domestically.

➢ Conclusion:

In conclusion, International Law governs relations between states while Municipal Law regulates people within a country. Both are essential for maintaining peace, justice, and order. IL ensures global cooperation, and ML protects citizens' rights and enforces laws domestically. Together, they create harmony between international obligations and national legal systems.