



PUBLIC INTERNATIONAL LAW

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**What is the difference between
International Law and Municipal
Law?**

Introduction

- The basis of both laws is different in many ways.
- Firstly, International Law is majorly concerned with the relation among States.
- Whereas Municipal Law controls the relationship between individuals and the State and between the individuals within a State.

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- Secondly, in the case of International Law, the law is not above the individuals but between the sovereign States and the States themselves create the law.
 - In International Law, the States often disobey the laws or create laws as per their interests. Whereas in the case of Municipal Law, the law is deemed to be above the individuals, as is the case with the laws of most of the countries, the law is deemed to be above individuals.

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- Thirdly, the sources of both laws differ.
 - Article 38 of the Statute of the ICJ is considered as the most authoritative statement of the sources of law for the Public International Law.
 - It states the sources of law such as customs, conventions, treaties, general principles of law recognized by civilized nations and judicial decisions and teachings of highly qualified publicists.


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- Whereas in the case of Municipal Laws there is a hierarchy of laws which determines, which legal commandment is more authoritative than others. For instance, in many countries, a hierarchy of courts is established wherein the judgments of higher courts are of more authoritative value and thus are relied upon by the lower courts.


Theories of Relationship

- Monistic Theory
- Dualistic Theory
- Specific Adoption Theory
- Delegation Theory

Monistic Theory

- Exponents – Kelsen, Wright, Westlake
- Municipal Law as well as International law are parts of one legal system serving the needs of the human community in one way or the other.

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- Both systems regulate the conduct of the individuals (municipal law does so immediately, international law does so mediately, through states)

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- In actual practice, states do not follow Monistic Theory.
 - Reason – International Law and Municipal Law are two separate systems of law.
 - Each state is sovereign and as such not bound by international law.

Dualistic Theory

- Exponents – Triepel, Anzilloti, Starke
- International law and Municipal laws of the several states are two distinct, separate and self-contained legal systems.

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- The subjects of Municipal Law are individuals, while subjects of International Law are States.

Specific Adoption Theory

- International law are not automatically applicable in the municipal sphere, and they become binding on municipal courts, only if such rules are transformed into municipal legislation.
- Geneva Convention
- Vienna Convention

Delegation Theory

- There is delegated to each state Constitutional rules of international law which permit each state to determine as to how international treaties will become applicable in the field of state law.

Thank You!