

# INTRODUCTION TO PUBLIC INTERNATIONAL LAW



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what is international law?

# international law - definitions

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- V. **The rules and principles of general application dealing with the conduct of States and of international organizations and with their relations *inter se*, as well as with some of their relations with persons, whether natural or juridical.**

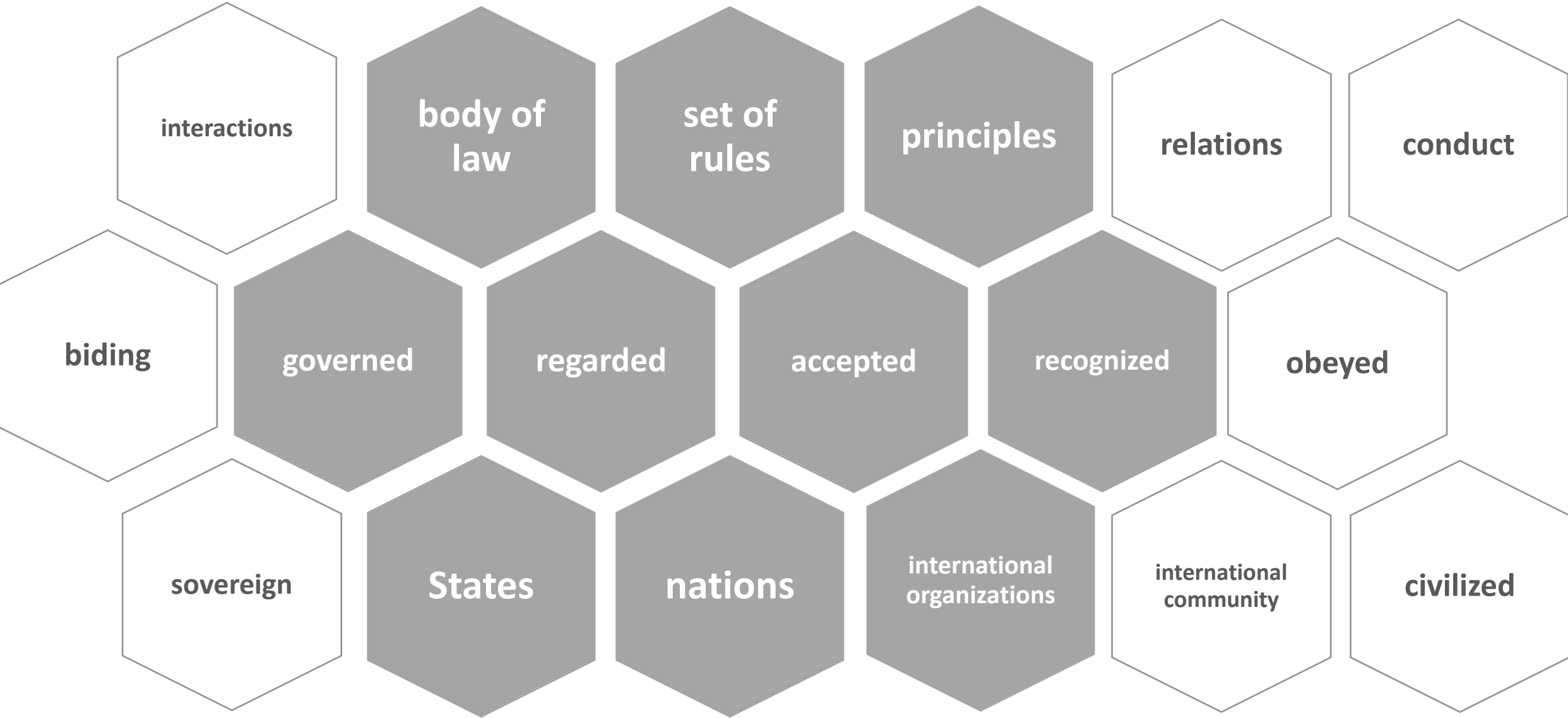
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- V. The rules and principles of general application dealing with the conduct of States and of international organizations and with their relations *inter se*, as well as with some of their relations with persons, whether natural or juridical.
- VI. The body of legal rules governing interaction between sovereign States (*Public International Law*) and the rights and duties of the citizens of sovereign States towards the citizens of other sovereign states (*Private International Law*).**



# international law - definitions

- VII. The body of law, which is composed for its greater part of the principles and rules of conduct which States feel themselves bound to observe, and therefore, do commonly observe in their relations with each other, and which includes also:**
- a) the rules of law relating to the functioning of international institution or organisations, their relations with each other, and their relations with States and individuals; as well as**
  - a) certain rules of law relating to individuals and non-State entities are the concern of the international community**



international community

# international community

nature of  
international  
legal subjects

lack of  
central  
authority

overriding  
role of  
effectiveness

collective  
responsibility

need for  
translation  
into national  
legislation

is international law really law?

why States obeyed international law?

# why States obeyed international law?

**the three Rs compliance's principle**

# why States obeyed international law?

## THE THREE RS COMPLIANCE'S PRINCIPLE

1. REPUTATION –

2. RECIPROCITY –

3. RETALIATION -



# why States obeyed international law?

## THE THREE RS COMPLIANCE'S PRINCIPLE

- 1. REPUTATION – judgement about a State's past behaviour which is used to predict its future behaviour**

States, like individuals care about their reputation and thus perform their international obligations and accept the enforcement of judgments against them in order to appear as reliable partner

- 2. RECIPROCITY – actions taken by a State against another State to respond to a violation by the latter State of an agreement, but without the intent of punishing the offending State.**

The victim State withdraws its own compliance with the relevant agreement because there is no benefit for the victim State to comply with it (does not apply to e.g. human rights treaties)

- 3. RETALIATION - actions taken by a State to punish the offending State.**

e.g. financial sanctions

why is international law not really law?

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2. international law is so vague that every political solution can be justified – sometimes only some cleverness is needed
3. international law does not provide possibilities to punish entities, which breached international rules
4. **international law is not a law on which we can relay on - there is no centralized system of norms' interpretation, assessment of theirs binding force and control concerning compliance with the international rules**

international law vs. national law



# international law vs. national law



Hierarchy of norms

Norms' creator

Enforcement

Elements of legal norms

# international law vs. national law

## HIERARCHY OF NORMS

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- hierarchy (usually written in the Constitution)

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## HIERARCHY OF NORMS

### NATIONAL LAW

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### INTERNATIONAL LAW

- no hierarchy of norms
- art. 38 of the Statute of International Court of Justice
- peremptory norms (*ius cogens* norms)

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NORMS' CREATOR

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### NATIONAL LAW

- Parliament – creates rules of conduct for itself (bye-laws) as well as for other entities (e.g. individuals)

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### INTERNATIONAL LAW

- always States (even when a law is of international organization's origin)
- norms are binding only for those States which participated in the establishment process
- notion of acquiescence

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## ENFORCEMENT



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## ENFORCEMENT

1. enforcement mechanisms of international law are not the same as those available within domestic legal systems because enforcement of international law **depends on the will of many sovereign States**
2. in most cases States obey international law but their compliance is not as highly publicised as is non-compliance
3. international rules are obeyed not only out of fear but because they are perceived to be **right, just** and **appropriate**

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## ENFORCEMENT

### NATIONAL LAW

- division of powers: legislature, executive and judiciary
- enforcement of national law is centralized in a government authority

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### INTERNATIONAL LAW

- lack of classical division of powers
- decentralized enforcement of law e.g.:
  - **the United Nations** (by the actions of the Security Council ; establishment of *ad hoc* International Criminal Tribunal for former Yugoslavia / Rwanda)
  - **international judiciary**: the International Court of Justice; the International Criminal Tribunal; the Court of Justice of the European Union

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## ELEMENTS OF LEGAL NORMS

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### INTERNATIONAL LAW



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