



The Peace Palace in The Hague, Netherlands, is where meetings of the International Court of Justice are held.

## International Law

The world is made up of approximately 200 nations with strong ideas about sovereignty and national interests. As these countries grow increasingly interdependent, their relationships are challenged by serious issues, including the threat of nuclear war, terrorism, destruction of the environment, trade imbalances, famine, and disease control. Often, because of their political, economic, religious, and cultural views, nations do not agree about how to address these issues. By applying international law to specific situations, countries may avoid a conflict that leads to aggression or outright war.

### Supreme Law

There are two legal theories about national and international law. One is the **monist** theory, which proposes the unity of national and international laws. It suggests that international law is not only part of a national legal system, but also superior to national law. Germany's legal system is based on the monist theory.

The other theory is the **dualist** theory, which holds that the national and international legal systems are separate and different. According to this theory, international law cannot be supreme because it is apart from the national legal system and has no influence on domestic law.

Public international law considers **states** (nations) to be legal entities. The law consists of all the rules, principles, customs, and agreements that these nations accept as having the force of law in their relations with each other. International law is applied as follows.

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In international terms, an independent sovereign nation is called a **state** and "country" often refers to the geographical boundaries of a nation. In this pamphlet and in general usage, the terms *state*, *nation*, and *country* mean the same thing.

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**International Conventions and Treaties.** These are formal pledges between or among nations. Conventions are general agreements among nations regarding matters of common concern, such as the Geneva Conventions. Treaties are written contracts, which are considered legally binding on those nations that signed the agreements. The United Nations charter is a multilateral treaty that addresses the agreements, rights, and duties of U.N. members. **Executive agreements** are pacts made between heads of state.

**International Customs.** These are international rules that have been practiced so long that courts regard them as unwritten laws. Most customary laws are based on Western culture and ideas. The laws are difficult to enforce because many non-Western nations are not likely to agree to the terms of laws that differ from their own customs.

**General Principles of Law.** These are general principles found in the various legal systems of many nations. One example is a nation's right to defend itself. The International Court of Justice may base its rulings on general principles of law, but it is reluctant to do so because many member nations think the Court is "creating" new laws instead of applying established laws.

**Comity of Nations.** This is the courteous and friendly practice between nations of mutually recognizing executive, legislative, and judicial acts. Comity allows one nation to recognize another's laws while still upholding its own laws. This form of international law is used in diplomatic situations.

### International Court of Justice

The International Court of Justice is the judicial organ of the United Nations. All United Nations members are automatically members of the ICJ. As a civil court, it applies the rule of law to international disputes between nations. Its **jurisdiction** is twofold: settling international disputes and giving advisory opinions on legal questions.

Only nations may be party to cases before the Court, but international organizations can obtain advisory opinions. In fact, the ICJ will try only those cases in which both nations agree to accept the judgment of the Court.

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**Jurisdiction** is the authority to interpret and apply the law.

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Unlike national law, which is supported by a system of courts and prisons, international law is difficult to enforce. The lack of power to enforce the law handicaps the Court. However, nations can enforce international law through economic sanctions like **embargoes** and the following coercive actions.

**Retorsion.** A lawful retaliatory act used by a nation to pressure another nation into reversing an unfriendly act. The action is identical or similar to the offense, such as imposing high tariffs or discriminatory duties.

**Reprisal.** An act of force in response to an illegal action against a nation. In most circumstances, the retaliatory act itself would be illegal. However, as a reprisal, it is lawful. For example, if a country refuses to repay a loan, the lending nation could legally seize its property.

**War.** The last resort. Because the consequences of war are so serious, the threat of war often is sufficient to force a country to change its ways.

The Security Council has the authority to back the Court's judgments but has never used it. Many developing countries are critical of the International Court of Justice because they believe that the ICJ is an instrument to further the interests of the first world nations.

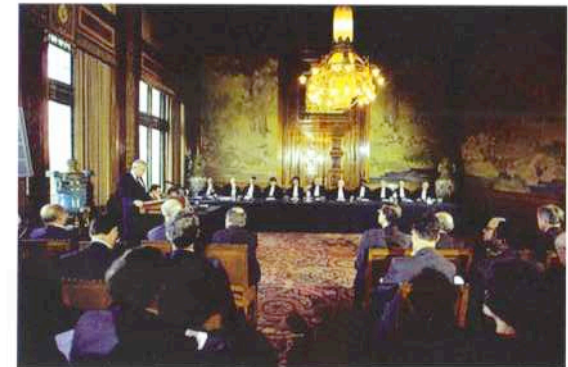
The International Court of Justice has had success in defining the principles by which disputes are judged. Some of these principles involve drawing lines to establish territorial sovereignty. These principles are applied in disputes about territorial waters and fishing rights.

The Court's actions include judgments on hostage-taking, the right of asylum, rights of passage, economic rights, and nationality. Certain advisory opinions deal with the status of human rights informers and the threat or use of nuclear weapons.

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An **embargo** is a government restriction or restraint on trade of a specific product or with a particular nation.

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A meeting of the International Court of Justice in The Hague's Peace Palace

The **principle of complementarity** means that nations have the primary duty to try the most serious international crimes. The ICC, however, may step in as a last resort if the nation fails to act because its legal system has collapsed or because it is shielding the person from prosecution.

### International Criminal Court

This permanent international criminal court of justice will try individuals accused of genocide, war crimes, and crimes against humanity. Its goals are to promote the rule of law and ensure that those people responsible for the most serious crimes do not go unpunished. The ICC's jurisdiction is **complementary** to national jurisdictions.

### Mistaken Identity

Many people confuse The Hague with the United Nations' International Court of Justice, but The Hague is actually a city. And the International Court of Justice is just one of the many international, diplomatic institutions that call The Hague home. Located on the eastern coast of the Netherlands, near the nation's capital city of Amsterdam, it is truly an international city, with 81 embassies and 46 consulates. More than half of its residents are actually from other countries!

Like the International Court of Justice, the ICC is located in The Hague, but the two courts are different. The ICJ is part of the United Nations system, and its purpose is to try civil disputes between countries. The ICC is an independent criminal court established to prosecute individuals.

The International Criminal Court does not have the support of the whole international community. In fact, the United States decided not to join because the ICC's general rules of action conflict with fundamental American beliefs about sovereignty, checks and balances, and national independence.



### International Criminal Police Organization

INTERPOL is the world's largest police organization. It maintains databases of forensic information (such as DNA and fingerprints) to share with national law enforcement agencies and supports them in cooperative efforts to combat international crime. These crimes between two or more countries include:

- Terrorism
- Financial crimes (money laundering, counterfeiting)
- Trafficking in human beings (smuggling people across borders for prostitution, forced labor, removal of organs)
- Drug trafficking
- High-tech crimes (computer viruses, identity theft)
- Theft of art work (looting of museums, forgeries)
- Intellectual property crimes (software piracy and counterfeiting of clothing, medicine, and CDs)

International law has had a positive impact on agreements and treaties concerning telecommunications, mail, health, weather forecasting, and air and sea transport. It has not had as much success with controversial issues that infringe on national sovereignty such as human rights legislation and laws of peace.

Most nations obey international law most of the time. One of the main reasons the application of international law works is because the countries recognize the need for order, stability, and predictability in their international relations. They know that it is in the mutual interest of all nations to follow the rules.

