**The nature and development of international law**

**Definition and scope**

According to Bentham’s classic definition, international law is a collection of rules governing relations between states. It is a mark of how far international law has evolved that this original definition omits individuals and international organizations—two of the most dynamic and vital elements of modern international law. Furthermore, it is no longer accurate to view international law as simply a collection of rules; rather, it is a rapidly developing complex of rules and influential—though not directly binding—principles, practices, and assertions coupled with increasingly sophisticated structures and processes. In its broadest sense, international law provides normative guidelines as well as methods, mechanisms, and a common conceptual language to international actors—i.e., primarily sovereign states but also increasingly international organizations and some individuals. The range of subjects and actors directly concerned with international law has widened considerably, moving beyond the classical questions of war, peace, and diplomacy to include human rights, economic and trade issues, space law, and international organizations. Although international law is a legal order and not an ethical one, it has been influenced significantly by ethical principles and concerns, particularly in the sphere of human rights.

International law is distinct from international comity, which comprises legally nonbinding practices adopted by states for reasons of courtesy (e.g., the saluting of the flags of foreign warships at sea). In addition, the study of international law, or public international law, is distinguished from the field of conflict of laws, or private international law, which is concerned with the rules of municipal law—as international lawyers term the domestic law of states—of different countries where foreign elements are involved.

International law is an independent system of law existing outside the legal orders of particular states. It differs from domestic legal systems in a number of respects. For example, although the United Nations (UN) General Assembly, which consists of representatives of some 190 countries, has the outward appearances of a legislature, it has no power to issue binding laws. Rather, its resolutions serve only as recommendations—except in specific cases and for certain purposes within the UN system, such as determining the UN budget, admitting new members of the UN, and, with the involvement of the Security Council, electing new judges to the International Court of Justice (ICJ). Also, there is no system of courts with comprehensive jurisdiction in international law. The ICJ’s jurisdiction in contentious cases is founded upon the consent of the particular states involved. There is no international police force or comprehensive system of law enforcement, and there also is no supreme executive authority. The UN Security Council may authorize the use of force to compel states to comply with its decisions, but only in specific and limited circumstances; essentially, there must be a prior act of aggression or the threat of such an act. Moreover, any such enforcement action can be vetoed by any of the council’s five permanent members (China, France, Russia, the United Kingdom, and the United States). Because there is no standing UN military, the forces involved must be assembled from member states on an ad hoc basis.

International law is a distinctive part of the general structure of international relations. In contemplating responses to a particular international situation, states usually consider relevant international laws. Although considerable attention is invariably focused on violations of international law, states generally are careful to ensure that their actions conform to the rules and principles of international law, because acting otherwise would be regarded negatively by the international community. The rules of international law are rarely enforced by military means or even by the use of economic sanctions. Instead, the system is sustained by reciprocity or a sense of enlightened self-interest. States that breach international rules suffer a decline in credibility that may prejudice them in future relations with other states. Thus, a violation of a treaty by one state to its advantage may induce other states to breach other treaties and thereby cause harm to the original violator. Furthermore, it is generally realized that consistent rule violations would jeopardize the value that the system brings to the community of states, international organizations, and other actors. This value consists in the certainty, predictability, and sense of common purpose in international affairs that derives from the existence of a set of rules accepted by all international actors. International law also provides a framework and a set of procedures for international interaction, as well as a common set of concepts for understanding it.