LEGAL NORMS

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“Norms of conduct are language utterances [...] expressed in the form of order or prohibit of future behavior”

A. Bator
Several types of norms can be distinguished, according to which the recipient can obtain the information about its character — for example the scope of regulation, addressees, latitude etc.

- General and individual
- Abstract and concrete
- Ius cogens and ius dispositivum
- Rules and principles
- Policies
TYPES OF NORMS

INDIVIDUAL
Norm’s hypothesis is formulated by individual name. For example: John Smith, Sherlock Holmes etc.

These types of norms usually occur in administrative decisions and judgements

GENERAL
Addressee can be described e.g. using the criterion of profession (doctor), social role (mother), role in social relation (debtor-creditor) etc. The norm is general even if there exist only one person which may be characterized by such general qualities. For example, any norms specifying their addressee as a Minister of Justice are regarded general

The division is based on the way of describing an addressee which can be indicated as a part of a group (distinguished by some general attributes) or as a particular entity (distinguished using personal, unique features)
The division is based on a manner of describing a legal obligation (prohibit, order, permission).

Legal norms are always abstract and general. As a result of the law applying process they become concrete and individual.
TYPES OF NORMS

**IUS COGENS**
You can call it: peremptory norm

It is a fundamental principle of international law that is accepted by the international community of states as a norm from which no derogation is permitted. Prohibits addressees to modify its content - it must be strictly applied.

**IUS DISPOSITIVUM**
Relatively applied rules. Only if the legal relationship was not arranged otherwise ius dispositivum is binding. It is characteristic of private law.
IUS COGENS

Vienna Convention on the Law of Treaties

Look at: article 53

"A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of states as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character."

- PROHIBITION OF:
  - genocide,
  - maritime piracy,
  - slaving,
  - torture,
  - refoulement,
  - apartheid,
  - wars of aggression,
  - territorial aggrandizement

examples
TYPES OF NORMS

RULES
are valid because they meet formal criteria (so called test of pedigree). They have precise scope of application; therefore they are applied in ‘all or nothing’ mode. In the case of a collision between the rules, one of them is repealed and is not binding any more. Any ‘middle’ solution cannot be applied.

PRINCIPLES
are valid because of the material significance. They are accepted and applied generally by lawyers. Their scope of application is imprecise; it depends on a wider context. For these reasons they need to be applied in a ‘more or less’ mode. Ergo, the principles may differ in importance (what holds true even for one principle, depending on the particular case). The collision not necessarily leads to repealing one of the principles. Rather, a procedure of ‘weighing’ is employed in such a case: the significance of each principle for the particular case at hand is decided, but all of them remain binding.
Policies are norms establishing the aim which is to be achieved by addressees of a particular legal instrument. Usually they appear in constitutional provisions. In a sense, they describe general aspirations of the lawgiver, without giving more precise prescriptions as for the way of achieving them. Policies may be either quite technical and precise, or axiological and open for various interpretations.

The second type is typical for constitutional rules, example: “Marriage, being a union of a man and a woman, as well as the family, motherhood and parenthood, shall be placed under the protection and care of the Republic of Poland” (The Constitution of the Republic of Poland)