International Law is incorporated into Domestic Law. 

By Javiera Núñez Ortega
Article 38 of the Statute of the International Court of Justice: The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

- international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
- international custom, as evidence of a general practice accepted as law;
- the general principles of law recognized by civilized nations;
- judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.
I. FROM THE POINT OF VIEW OF INTERNATIONAL LAW

Article 27 of the Vienna Convention of the Law of Treaties, which says: "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty."
II. From the point of view of Chilean law

THE HIERARCHY OF THE TREATIES HAS BEEN DEEPLY DISCUSSED

- There is no rule that establishes the relation of treaties with other laws
- There is no a legal solution to solve normative conflict that arise between treaties and domestic rules.
How to solve?

The jurisprudence: the Supreme Court pointed out that treaties have at least supra legal standing.
In practice: several treaties have regulated matters subject to the constitution i.e: Article 10, Chilean Peruvian Treaty of 1929

• "The children of Peruvians born in Arica shall be considered Peruvians until the age of twenty-one, at which time they may opt for their definitive nationality, and the children of Chileans born in Tacna shall have the same right."
HIERARCHY IN THE CHILEAN LAW

C & T with C hierarchy

OTHER INTERNATIONAL TREATIES

LAWS
THE HIERARCHY IN THE CHILEAN LAW

C & T with C hierarchy

OTHER INTERNATIONAL TREATIES

LAWS

HUMAN RIGHTS TREATIES?
Constitution
Article 32

The President of the Nation (NEB) who has the power to conduct the foreign policy. Therefore, the President has the power to negotiate, conclude, sign and ratify the treaties he deems in the best interests of the country.
STAGES OF THE CONCLUSION OF TREATIES

1) NEGOTIATION

2) ADOPTION

3) AUTHENTICATION
THE INTERNAL PROCEDURE

- NEB
- CONGRESS
- REJECT
- APPROVE
- RATIFICATION
AFTER THE RATIFICATION: administrative acts, no automatic
the treaty will enter into force in accordance with its own provisions.
Simplified treaties: treaties that are not sent to the Congress.

- **President of the Nation**
- **Treaties**
- **In the exercise of the Administrative Powers of the Executive Branch**
- **Framework Treaties**
- **These kind of treaties cannot contain matters subject to law**
THANK YOU

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WHERE TO SEARCH?

https://www.bcn.cl/portal