

INTERNATIONAL LAW AND NATIONAL LAW

NATIONAL LAW CREATED BY THE STATE THROUGH ITS LEGISLATIVE BODIES
INTERNATIONAL LAW CREATED BY NEGOTIATIONS AMONG
STATES/BETWEEN STATES
OR BY CUSTOMARY PRACTICES (EXAMPLES: DIPLOMATIC
IMMUNITY & FREEDOM OF THE SEAS)

NATIONAL LAW IS ENFORCED BY THE STATE
INTERNATIONAL LAW HAS NO ENFORCEMENT AGENCY.

WHY FOLLOWED INTERNATIONAL LAW? OFTEN FOR THE SAME REASONS WE
FOLLOW NATIONAL LAW

- MORAL PRINCIPLE
- SENSE OF OBLIGATION
- PRESERVE ORDERLY CONDUCT; PROCEDURES AND
PREDICTABILITY
- FEAR OF REPRISAL
- LONG-TERM BENEFITS OUTWEIGH SHORT-TERM GAINS; RECIPROCITY
VERSUS PARIAH/UNTRUSTWORTHY

HURD'S VIEW, RELATIVE TO ORGANIZATIONS

THE TENSIONS BETWEEN STATE OBLIGATIONS AND STATE SOVEREIGNTY PROVIDE THE FUEL THAT DRIVES POLITICS IN AND AROUND INTERNATIONAL ORGANIZATIONS/LAW.

IOS/LAW ARE STUCK IN THE POSITION OF TRYING TO INFLUENCE ACTORS THAT HAVE THE LEGAL RIGHT AND PERHAPS ALSO THE POLITICAL POWER TO RESIST THAT INFLUENCE.



(1) What are the obligations that countries consent to when they join the organization (**agree to a law**)?

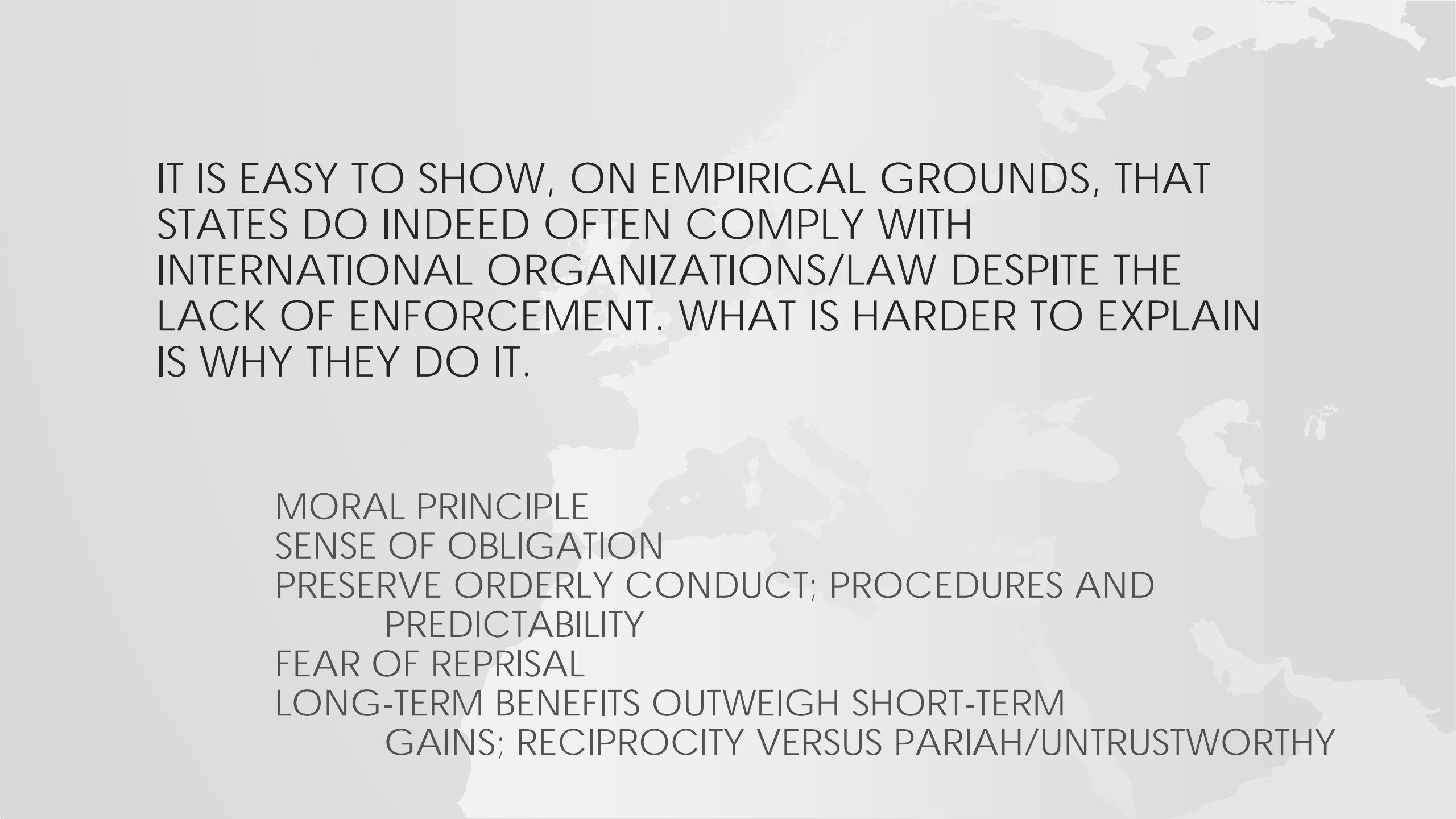
(2) Why do states in practice comply with these obligations?

(3) What powers of enforcement does the organization (**the law**) have?



TREATIES SPELL OUT IN EXPLICIT, "BLACKLETTER" LAW THE GOALS AND POWERS OF THE ORGANIZATION AND THE OBLIGATIONS AND RULES THAT MEMBER STATES MUST TAKE ON. WHEN GOVERNMENTS JOIN INTERNATIONAL ORGANIZATIONS, **THEY PROMISE TO ACCEPT** WHATEVER RULES OR OBLIGATIONS ARE INCLUDED IN THESE TREATIES.

STATE COMPLIANCE WITH INTERNATIONAL ORGANIZATIONS, WE NEED TO BE ATTENTIVE TO THESE MORE SUBTLE EFFECTS AS WELL AS THE MORE DRAMATIC MOMENTS WHERE STATES CHOOSE TO VIOLATE OR COMPLY WITH THEIR OBLIGATIONS.



IT IS EASY TO SHOW, ON EMPIRICAL GROUNDS, THAT STATES DO INDEED OFTEN COMPLY WITH INTERNATIONAL ORGANIZATIONS/LAW DESPITE THE LACK OF ENFORCEMENT. WHAT IS HARDER TO EXPLAIN IS WHY THEY DO IT.

MORAL PRINCIPLE
SENSE OF OBLIGATION
PRESERVE ORDERLY CONDUCT; PROCEDURES AND
PREDICTABILITY
FEAR OF REPRISAL
LONG-TERM BENEFITS OUTWEIGH SHORT-TERM
GAINS; RECIPROCITY VERSUS PARIAH/UNTRUSTWORTHY

EXAMPLES OF NON-COMPLIANCE



1984 – NICARAGUA vs. US
SOVEREIGNTY ISSUE
US SUPPORT FOR CONTRA REBELS AND MINING HARBORS
INTERNATIONAL COURT of JUSTICE RULED AGAINST THE US
THE US IGNORED THE RULING

2003 – US INVASION OF IRAQ
SOVEREIGNTY ISSUE
US ARGUED DOCTRINE OF PREEMPTION JUSTIFIED THE INVASION

2014 – RUSSIA'S ANNECATION OF THE CRIMEA
SOVEREIGNTY ISSUE
HELSINKI ACCORDS OF 1975 -- "frontiers" in Europe should be
stable but could change by peaceful internal means.
Not treaty status

2017 – RUSSIA'S INTERMEDIATE RANGE NUCLEAR WEAPONS
BI-LATERAL TREATY OF 1987
OUTCOME?

