

**UNIVERSITY OF OXFORD**

**PUBLIC INTERNATIONAL LAW**

**JURISDICTION AND IMMUNITIES: (1) JURISDICTION**

**A. Outline:**

- I. Introduction
- II. The ‘Three-Step Approach’
  - 1. Existence of jurisdiction
  - 2. Immunities from jurisdiction
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- III. Jurisdiction
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    - b. Bases
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            - ( $\gamma$ ) ‘Effects doctrine’
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- (α) Justification
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  - Hostage taking
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- (3) Bases of extraterritorial enforcement jurisdiction
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  - (b) Treaty
  - (c) Consent
  - (d) Authorization by the Security Council
  - (e) Occupation
- e. Clashes of national jurisdiction

## **B. Basic Reading:**

### **(a) Treaties and Other Documents** [available in Blackstone's International Law Documents]

- 1945 Statute of the International Court of Justice, Art. 36
- 1969 Vienna Convention on the Law of Treaties, Arts. 34-38
- 1971 Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal Convention), Arts. 1-9
- 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, Arts. 1-8
- 1982 United Nations Convention on the Law of the Sea, Arts. 2, 17, 21-28, 33, 56, 91, 92, 97, 101-111, 207-221
- 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, Arts. 1-8
- 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, Arts. 1-11

- 1993 Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY Statute)
- 1994 Convention on the Safety of United Nations and Associated Personnel, Arts. 9, 10, 13-15
- 1998 Rome Statute of the International Criminal Court, Arts. 5-13
- 1999 International Convention for the Suppression of the Financing of Terrorism, Arts. 6-11

## **(b) Cases**

### **(1) Permanent Court of International Justice**

- *The Case of the S.S. "Lotus"* (1927), PCIJ, Ser. A, No. 10 [or Ser. A/B, No. 22]

### **(2) National Courts**

#### **(i) Israel**

- *Attorney-General of the Government of Israel v. Eichmann*, District Court of Jerusalem, (1961) 36 ILR 5

#### **(ii) Spain**

- Decision No. 327/2003, 25 February 2003 (*Guatemala Genocide Case*), ILM 42 (2003), 683
- Decision No. 712/2003, 20 May 2003 (*Peruvian Genocide Case*), ILM 42 (2003), 1200

#### **(ii) United States**

- *Empagran v. Hoffman-LaRoche, Ltd.*, 315 F.3d 338 (CA D.C. Cir. 2003) [currently before the US Supreme Court]
- *US v. DE Leon*, 270 F.3d 90 (CA 1<sup>st</sup> Cir. 2001)
- *US v. Yousef*, 317 F.3d 56 (CA 2<sup>nd</sup> Cir. 2003)

## **(c) Literature**

### **(i) General Textbooks**

The following general textbooks contain suitable chapters on Jurisdiction:

Brownlie, Ian, *Principles of Public International Law* (6<sup>th</sup> edn., Oxford: Oxford University Press, 2003), 297-318

Evans, Malcolm D. (ed.), *International Law* (Oxford: Oxford University Press, 2003), 329-355

Shaw, Malcolm N., *International Law* (Cambridge: Cambridge University Press, 2003), 572-620

## (ii) Cases and Materials

Dixon, M./McCorquodale, R., *Cases and Materials on International Law* (4<sup>th</sup> edn., Oxford: Oxford University Press, 2003), 268-300

Harris, D.J., *Cases and Materials on International Law* (5<sup>th</sup> edn., London: Sweet & Maxwell, 1998), 264-306

## C. Specialist Monographs and Articles:

Akehurst Michael, Jurisdiction in International Law, *British Year Book of International Law* 46 (1972-1973), 145-217 [illuminating]

Estey, Wade, The Five Basis of Extraterritorial Jurisdiction and the Failure of the Presumption Against Extraterritoriality, *Hastings International and Comparative Law Review* 21 (1997), 177-208

Lowe, A. Vaughan, US Extraterritorial Jurisdiction: The Helms Burton and D'Amato Acts, *International and Comparative Law Quarterly* 46 (1997), 378-390

Lowenfeld, Andreas, Conflict, Balancing of Interests, and the Exercise of Jurisdiction to Prescribe: Reflections on the Insurance Antitrust Case, *American Journal of International Law* 89 (1995), 42-53

Sadat, Leila Nadya, Redefining Universal Jurisdiction, *New England Law Review* 35 (2001), 241-263

Scharf, Michael P., Application of Treaty-Based Universal Jurisdiction to Nationals of Non-Party States, *New England Law Review* 35 (2001), 363-382

Wilske, Stephan/Schiller, Teresa, International Jurisdiction in Cyberspace: Which States May Regulate the Internet?, *Federal Communications Law Journal* 50 (1997), 117-178