

Extraterritoriality in Comparative Perspective

Ius Comparatum

Founding Editors

Jürgen Basedow (*Max Planck Institute for Comparative and International Private Law, Hamburg, Germany*)
George A. Bermann (*Columbia University, New York, USA*)

Former Series Editors

Katharina Boele-Woelki (*Bucerius Law School, Hamburg, Germany*)
Diego P. Fernández Arroyo (*Institut d'Études Politiques de Paris (Sciences Po), Paris, France*)

Series Editors

Giuditta Cordero-Moss (*University of Oslo, Oslo, Norway*)
Gary F. Bell (*National University of Singapore, Singapore*)

Series Assistant Editor

N. Kansu Okyay (*Université de Strasbourg, Strasbourg, France*)

Editorial Board Members

Ewa Baginska (*Gdansk University, Gdansk, Poland*)
Vivian Curran (*University of Pittsburgh, Pittsburgh, PA, USA*)
Nicolás Etcheverry (*Universidad de Montevideo, Montevideo, Uruguay*)
Makane Moïse Mbengue (*Université de Genève, Geneva, Switzerland*)
Marilda Rosado de S. Ribeiro (*Universidade do Estado do Rio de Janeiro, Rio de Janeiro, Brazil*)
Marilyne Sadowsky (*Université Paris 1 Panthéon-Sorbonne, Paris, France*)
Dan Wei (*University of Macau, Macau, China*)

VOLUME 5

The titles published in this series are listed at *brill.com/iacI*

Extraterritoriality in Comparative Perspective

Edited by

Hannah L. Buxbaum



BRILL | NIJHOFF

LEIDEN | BOSTON

Library of Congress Cataloging-in-Publication Data

Names: Buxbaum, Hannah L., 1966- editor.

Title: Extraterritoriality in comparative perspective / edited by Hannah L. Buxbaum.

Description: Leiden ; Boston : Brill/Nijhoff, 2025. | Series: Ius comparatum, 2214-6881 ; vol 5 | Includes bibliographical references and index. | Summary: "Extraterritoriality is often understood as an exceptional, sometimes even illegitimate, form of state lawmaking-yet it is pervasive in contemporary practice. Countries around the world rely on extraterritorial regulation to protect local markets, in areas including competition law and data privacy. It is also recognized as a useful strategy to promote international human rights, and to address shared challenges as diverse as transnational crime, tax base erosion, and climate change. The normalization of extraterritoriality as a legal technique, however, has by no means resolved longstanding debates about its place in the international legal order. Containing in-depth studies of fifteen legal systems, this volume provides a critical comparative perspective on those debates" – Provided by publisher.

Identifiers: LCCN 2024046853 (print) | LCCN 2024046854 (ebook) | ISBN 9789004720176 (hardback) | ISBN 9789004720183 (v. 5 ; ebook)

Subjects: LCSH: Extraterritoriality.

Classification: LCC KZ3678 .E959 2025 (print) | LCC KZ3678 (ebook) | DDC 341.4-dc23/eng/20241008

LC record available at <https://lcn.loc.gov/2024046853>

LC ebook record available at <https://lcn.loc.gov/2024046854>

Typeface for the Latin, Greek, and Cyrillic scripts: "Brill". See and download: brill.com/brill-typeface.

ISSN 2214-6881

ISBN 978-90-04-72017-6 (hardback)

ISBN 978-90-04-72018-3 (e-book)

DOI 10.1163/9789004720183

Copyright 2025 by Koninklijke Brill BV, Plantijnstraat 2, 2321 JC Leiden, The Netherlands.

Koninklijke Brill BV incorporates the imprints Brill, Brill Nijhoff, Brill Schöningh, Brill Fink, Brill mentis, Brill Wageningen Academic, Vandenhoeck & Ruprecht, Böhlau and V&R unipress.

All rights reserved. No part of this publication may be reproduced, translated, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without prior written permission from the publisher. Requests for re-use and/or translations must be addressed to Koninklijke Brill BV via brill.com or copyright.com.

For more information: info@brill.com.

This book is printed on acid-free paper and produced in a sustainable manner.

Contents

Preface VII

List of Contributors VIII

PART 1

General Report

Extraterritoriality in Comparative Context: Defining the Scope of State Law in a Global Era 3

Hannah L. Buxbaum

PART 2

National Reports

Australia 35

Danielle Ireland-Piper

Brazil 54

André de Carvalho Ramos and Mariana Sebalhos Jorge

Canada: Federal and Common Law 77

John C. Kleefeld

Canada: Québec 118

Frédérique Sabourin

China 143

Shiping Liao

Germany 165

Sören Segger-Piening

Italy 211

Alessandra Zanobetti

Japan 229

Hisashi Harata

Korea 264

Gyooho Lee

The Netherlands 285

Lucas Roorda, Cedric Ryngaert and Timo Zandstra

Romania 308

Sergiu Popovici

Taiwan 326

Rong-Chwan Chen

United Kingdom 346

Matteo Angelini

United States 375

Franklin A. Gevurtz

Vietnam 400

Quoc Chien Ngo and Duc Vinh Nguyen

PART 3

Special Report

The Extraterritorial Application of Statutes and Regulations in EU Law 413

Lena Hornkohl

PART 4

Questionnaire 457

Index 461

Preface

In its famous “Lotus” judgment of 1927, the Permanent Court of International Justice rejected the proposition that international law prohibits states from “extend[ing] the application of their laws and the jurisdiction of their courts to persons, property and acts outside their territory.” Over the course of the past century, states have engaged in extraterritorial practices in an ever-increasing range of domains. These practices challenge foundational principles of international law – and provide a valuable lens for critical exploration of power and legitimacy in the international order.

Much of the vast scholarly literature on extraterritoriality approaches the topic from the outside in, assessing the extraterritorial projection of state law from the perspective of international law and the constraints it places on state authority. The goal of this project is to approach the topic from the inside out. Considering a range of legal systems, the authors investigate the geographic scope that states claim for their own laws, and the mechanisms by which states translate and locally implement principles of international jurisdictional law. The book consists of contributions presented at the most recent General Congress of the International Academy of Comparative Law, held in Asunción, Paraguay in 2022. It includes national reports from fourteen countries, a special report on EU law, and a general report. Together, these chapters illuminate significant changes in the morphology of extraterritoriality over the past century. They illustrate the extent to which extraterritoriality has become embedded in, and has contributed to shaping, the transnational legal order.

Hannah L. Buxbaum
Bloomington, Indiana
July 2024

Contributors

Matteo Angelini

Counsel, WilmerHale, London, England

Hannah L. Buxbaum

Professor of Law and John E. Schiller Chair, Indiana University, USA

André de Carvalho Ramos

Professor of Law, University of São Paulo, Brazil

Rong-Chwan Chen

University Distinguished Professor of Law, National Taipei University, Taiwan

Franklin A. Gevurtz

Distinguished Professor of Law, University of the Pacific, Sacramento, USA

Hisashi Harata

Professor of Law, University of Tokyo, Japan

Lena Hornkohl

Assistant Professor, University of Vienna, Austria

Danielle Ireland-Piper

Associate Professor, Australian National University, Australia

John C. Kleefeld

Professor of Law, University of New Brunswick, Canada

Gyoocho Lee

Professor of Law, Chung-Ang University, Republic of Korea

Shiping Liao

Professor of Law, Beijing Normal University, China

Quoc Chien Ngo

Professor, Foreign Trade University, Hanoi, Vietnam

Duc Vinh Nguyen

Professor, Foreign Trade University, Ho Chi Minh City, Vietnam

Sergiu Popovici

Assistant Professor, West University of Timisoara, Romania

Lucas Roorda

Assistant Professor of Law, Utrecht University, The Netherlands

Cedric Ryngaert

Professor of Public International Law, Utrecht University, The Netherlands

Frédérique Sabourin

Retired advocate, Canada

Mariana Sebalhos Jorge

Attorney, Sebalhos Advocacia, Brazil

Sören Segger-Piening

Professor of Law, University of Osnabrück, Germany

Timo Zandstra

Assistant Professor of Law, Utrecht University, The Netherlands

Alessandra Zanobetti

Professor and Chair of International Law, Università di Bologna, Italy

