STATE’S JURISDICTION

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STATE’S JURISDICTION
STATE’S JURISDICTION - DEFINITION

I. capacity of a State under International Law to prescribe and enforce the rules of law

II. it is derived from the State sovereignty and constitutes its vital and central feature.

III. it is the authority of a State over persons, property and events which are primarily within its territories (its land, its national airspace, and its internal and territorial water) - it involves the powers to prescribe the rules of law, to enforce the prescribed rules of law and to adjudicate
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is the capacity of a State to prescribe rules of law.
STATE’S JURISDICTION - LEGISLATIVE

TERRITORIAL

LAND

INTERNIOR OF THE EARTH

WATERS

AIR SPACE

internal waters
territorial sea
contiguous zone
continental shelf
exclusive economic zone
STATE’S JURISDICTION - LEGISLATIVE

TERRITORIAL

IS FULL
exceptions: diplomatic immunity and human rights

IS EXCLUSIVE
exceptions: if the Treaty provides so
STATE’S JURISDICTION - LEGISLATIVE

PRINCIPLE OF SUBJECTIVE TERRITORIAL JURISDICTION

PRINCIPLE OF OBJECTIVE TERRITORIAL JURISDICTION

THE EFFECTS DOCTRINE
Andrew Meldrum Case

TERRITORIAL – COLLISION OF TERRITORIAL JURISDICTIONS
respects and follow the rules of conduct of his/her State of citizenship

respect and follow the rules of conduct of receiving State (e.g. tax law, criminal law)
STATE’S JURISDICTION - LEGISLATIVE

PERSONAL – CITIZENSHIP
STATE’S JURISDICTION - LEGISLATIVE

PERSONAL – WAY OF ACQUISITION AND LOSS OF CITIZENSHIP

ACQUISITION

- birth
- adoption
- marriage
- reintegration
- option
- naturalization
- repatriation

LOSS

- decision
- the end of the State
- fusion of States
- deprivation
STATE’S JURISDICTION - LEGISLATIVE

PERSONAL – CITIZENSHIP

EFFECTIVE CITIZENSHIP

Nottebohm Case

CITIZENSHIP OF THE EUROPEAN UNION
allows a sovereign State to assert jurisdiction over a person whose conduct outside its boundaries threatens the States security or significant interest of this State, or interferes with the operation of its government functions
STATE'S JURISDICTION - LEGISLATIVE

PROTECTIVE

- espionage
- counterfeiting money
- falsification of official documents
- submitting false testimony to a consular officer.
in exceptional cases, the state may apply its criminal law to persons prosecuted for offenses irrespective of the offender's and victim's nationality, and irrespective of the place where the offense was committed
STATE’S JURISDICTION - LEGISLATIVE

UNIVERSAL

- based on (alleged) international law
- based on international agreement
STATE’S JURISDICTION - LEGISLATIVE

UNIVERSAL

- based on (alleged) international law
  - hostes humani generis: piracy, genocide, war crimes, crimes against humanity

- based on international agreement
  - prevention of child trafficking, terrorism, drug trafficking
STATE’S JURISDICTION - EXECUTIVE

is the capacity of a State to act and to enforce its laws within its territory
STATE’S JURISDICTION - EXECUTIVE

IN THE TREATY
(e.g. Ship Rider Agreements)

AD HOC CONSENT
is the capacity of the courts of a State to try legal cases