

Question-05

What is meant by state jurisdiction? Discuss different types of state jurisdiction under International Law.

Answer:

1. Introduction:

State jurisdiction refers to the authority of a state to regulate, adjudicate, and enforce laws within its territorial and extraterritorial domains. This state jurisdiction is further divided into Civil and Criminal jurisdiction. There are also certain exceptions in state jurisdiction. These exceptions are in the form of immunities from jurisdiction. Under international law, jurisdiction defines the scope

with which a state can exercise its sovereignty over individuals, property, and events. Jurisdiction is crucial for maintaining law and order and ensuring justice within a state's boundaries.

2. What is State Jurisdiction?

State jurisdiction is the capacity of a state under international law to prescribe and enforce the rules of law. It is derived from the state's sovereignty and constitutes its vital and central feature.

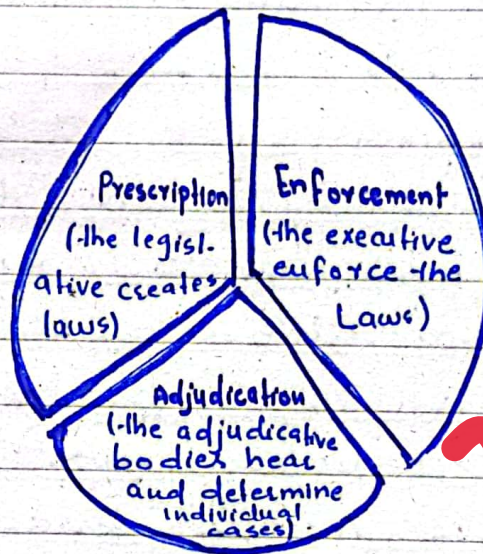
The authority of state involves power to,

(i) Prescribe the rules of law,

P.T.O

(ii) To enforce - the prescribed rules of law.

(iii) To adjudicate.



3. Classification of State Jurisdiction:

(a) **CIVIL**
state civil laws should be applied in case of civil disputes.

(b) **CRIMINAL**
Any Criminal act occurred on its territory or outside state should have jurisdiction.

(a) Civil jurisdiction:

Civil jurisdiction focuses on resolving private issues between individuals, corporations, or states over issues like contracts, property or torts. It seeks remedies such as compensation or specific performance rather than punishment. Jurisdiction is typically based on factors like the location of the parties or property and often requires consent or agreements respecting state sovereignty and international treaties.

(b) Criminal jurisdiction:

Criminal jurisdiction deals with offenses against public order, state security, or international norms such as terrorism, piracy or war crimes. It involves prosecution by a state or international tribunal, with the goal of punishing

offenders and deterring future crimes. Enforcement is more robust and may include extradition, imprisonment, or fines, often invoking principles like universal jurisdiction for serious crimes.

4.

Types of State Jurisdiction

State jurisdiction is divided into following types:

(a)

Territorial jurisdiction:

(i)

Subjective Territorial Jurisdiction:

state may claim jurisdiction over crimes commenced within its territory but completed or consumed outside of its territory. For example under the Geneva Convention for the suppression of illicit drug traffic (1929), obliges states where crime initiated to apply its jurisdiction.

(ii)

Objective Territorial jurisdiction:

P. T. O

tion:

"According to this principle a state gets jurisdiction over crime if any of the constituent elements of the crime is consummated in the territory" (Kapoor and Tandon, International Law).

This principle is of ten accepted and applied. A prominent illustration is S.S Lotus case and its decision by PCIJ in 1927.

(b) Criminal jurisdiction of International Law: Theories

(i) Territoriality of criminal jurisdiction:

This view is supported by UK, USA and some other countries.

"According to this view, each state can exercise criminal jurisdiction within its territory" (J.G. ~~Sturke~~).

(ii) Territoriality with exception:

The chief exponents

are France and Germany.

"State may exercise criminal jurisdiction over outside its territory on the basis of the national security and no economic ground" (Oppenheim)

(iii)

Theory of Extraterritoriality:

"Crime is a social evil and it is in the interest of whole international community to ensure that the criminals get due punishment" (Klien).

Turkey and Italy are the chief supporters of this theory.

(c)

Criminal jurisdiction of Coastal State in the Territorial Sea:

The criminal jurisdiction of coastal state extends to territorial waters upto 12 nautical miles in the sea. However, it allows other states the innocent passage into the waters.

(d)

State jurisdiction according to P.T.O

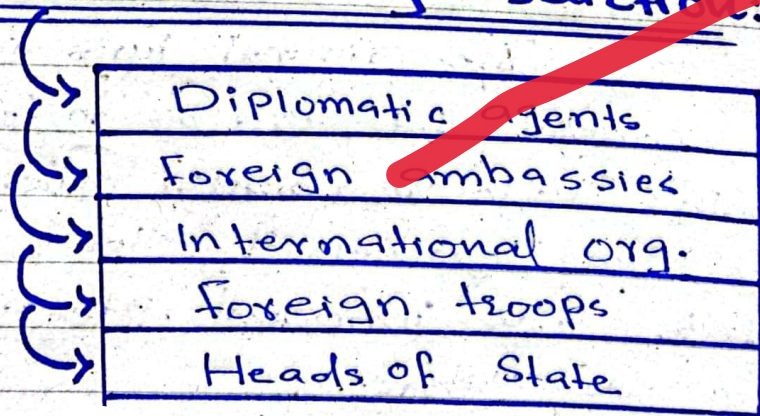
universal principle:

"An offense subject to universal jurisdiction is one which comes under the jurisdiction of all states, wherever it be committed"
(Starke)

In universal jurisdiction all states are responsible to punish and apprehend criminals, according to Geneva Convention on the Laws of Sea, 1958

However only two clear cut cases of universal jurisdiction are taken in practice till today:
- the crime of piracy and war.

5. Some exceptions to the exercise of jurisdiction:



Concise your conclusion
You are doing really
good

6.

Conclusion

Jurisdiction is the principle tool of the ascertainment of states of their public and sovereign authority. It is closely linked to sovereignty and is exercised through legislative, executive, or judicial actions. The jurisdiction of state is classified into civil and criminal cases.

Along with this, territorial jurisdiction is divided into subjective and objective jurisdiction. Criminal jurisdiction also consists of three different theories. In contrast, some individuals and organizations have immunity from this jurisdiction too. Thus, state jurisdiction is essential to maintain international law and exercise state sovereignty.