

Conceptualisation of Criminal Law and Federal Courts

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Editor Note

Criminal law within public law and is not subject to the individual's disposition having its sphere of application determined by public international law, which defines the reach of state sovereign. Prosecution proceedings are almost never governed by foreign laws. The most important issue is therefore whether a state's authorities may commence criminal proceedings in cases involving foreign persons or elements. According to the generally recognized principle of territoriality, the country where the offense was committed is competent to investigate and adjudicate it, because that country's authorities are responsible for preserving law and order in its territory.

Territoriality may be modified in two ways. First, countries may claim jurisdiction over offenses committed by their citizens abroad. Second, public international law recognizes the jurisdiction of all countries over certain universal crimes, including genocide and piracy. A number of bilateral and multilateral conventions facilitate the obtaining of evidence, provide legal aid, or ensure the extradition of offenders. Conventional providers for judicial and police cooperation in criminal matters. Many countries, such as the United Kingdom, France, and Japan, have unitary judicial systems in which all courts fit into a single national hierarchy of tribunals along the lines just described. Other countries, organized on a federal basis, tend to have more complicated court structures, reflecting the fragmentation of governmental powers between the central authority and local authorities. To a limited extent, the jurisdiction of the federal courts is exclusive of that exercised by the state courts, but there are large areas of overlap and duplication. Unless state laws or state constitutions conflict with national laws or the national constitution, state courts are the final arbiters of the meaning of state law. Top level is the Supreme Court of the United States, which hears appeals not only from the lower federal courts but also from state courts insofar as they present federal questions arising under the Constitution of the United States or under federal statutes or treaties. If a case in a state court involves only a question of state law for example, the interpretation of a state statute the ultimate authority is the state supreme court, and no appeal is possible to the United States of America supreme Court. Structural court in a federal form of government need not be as complicated as that in the United States. It is possible to have only one set of courts for the country, operated by the central government and handling all cases that arise under state law as well as federal law. Germany is also a federal republic, dividing power

between the federal and state systems. At the national level, there are five supreme courts and one constitutional court. The supreme courts represent separate jurisdictions. Another possibility is for each state or province to have its own system of courts, handling all questions of federal as well as state law, and for the central government to maintain only a single supreme court to decide questions as to the relationship of the central authority and the local authorities or as to the relationship between the local authorities themselves. This pattern is found in Canada and Australia.

Conclusion

Complication resulting from a federal form of government is that questions involving conflict of laws arise with great frequency. Such questions concern the choice to be made between the law of one jurisdiction and that of another as the rule for a decision in a particular case. Even in a unitary system, such problems cannot be avoided; for example, a court in the United Kingdom may be called upon to try a case arising from a transaction that took place in France and to decide whether British or French law should govern. Such problems arise much more often, however, in federal systems, where laws differ from state to state and people move about very freely. Their activities in one state sometimes become the subject of a lawsuit in another, and the court is required to decide which law should apply.

Biography

He is currently a Global Ethics Fellow at the Carnegie Council for Ethics in International Affairs in New York, and a Distinguished Fellow at the Macau University of Science and Technology. He has previously been a Research Associate at the Institute for Ethics, Law, and Armed Conflict at Oxford University, a Visiting Research Fellow at the University of Buenos Aires, and a Visiting Scholar at New York University. Professor Ritchie has also been a visiting or consulting faculty member at several universities and institutes in Rio de Janeiro, Brazil. He is a founding member, and currently serves as Senior Scholar, at the Brazil Institute at Mercer (BRIM). Professor Ritchie has taught, lectured, and published extensively around the world (Argentina, Brazil, China, England, Germany, India, Macau, and Serbia). In 2012 Professor Ritchie was on the international jury of PLURAL+, a joint initiative between the United Nations Alliance of Civilizations and the International Organization for Migration which is a youth-produced video festival that encourages young people to explore migration, diversity and social inclusion. He has organized or hosted conferences, symposia, and colloquia at Mercer and in Brazil.

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