



Does the Constitution Follow the Flag?: The Evolution of Territoriality in American Law

Kal Raustiala

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The Bush Administration has notoriously argued that detainees at Guantanamo do not enjoy constitutional rights because they are held outside American borders. But where do rules about territorial legal limits such as this one come from? Why does geography make a difference for what legal rules apply? Most people intuitively understand that location affects constitutional rights, but the legal and political basis for territorial jurisdiction is poorly understood. In this novel and accessible treatment of territoriality in American law and foreign policy, Kal Raustiala begins by tracing the history of the subject from its origins in post-revolutionary America to the Indian wars and overseas imperialism of the 19th century. He then takes the reader through the Cold War and the globalization era before closing with a powerful explanation of America's attempt to increase its extraterritorial power in the post-9/11 world. As American power has grown, our understanding of extraterritorial legal rights has expanded too, and Raustiala illuminates why America's assumptions about sovereignty and territory have changed. Throughout, he focuses on how the legal limits of territorial sovereignty have diminished to accommodate the expanding American empire, and addresses how such limits *ought* to look in the wake of Iraq, Afghanistan, and the war on terror. A timely and engaging narrative, *Does the Constitution Follow the Flag?* will change how we think about American territory, American law, and-ultimately-the changing nature of American power.

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