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*by* Ws Rf

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Jurisdiction, courts and Sentencing

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### Jurisdiction, courts and Sentencing

#### **Question 1**

Jurisdiction is the legalized and lawful power laid down in all judicial and human rights institutions to make judgments on individuals. The power gives the legal practitioners to follow laid down guidelines to listen and analyze the culprits before making any judgment. The offender has a right to be heard equally to the complainant, and both sides have to be treated equally, this sometimes requires witnesses in weighty cases. Jurisdiction is the administration of justice granted to authorized and legal bodies to serve the people following the law as it dictates or a constitution in the countries that use such. Jurisdiction draws its legal matters from international law, constitutional law, and conflict law (Ryngaert, 2015). A jurisdiction institution, preferably a court, is only set to hear and determine the legal issues that only fall within its jurisdiction. In case a court determines a case that does not fall within its jurisdiction, then this matter is declared null and void and non-abiding by the dogmas and the guidelines of the jurisdiction. All jurisdiction courts are competent to hear and determine legal matters provided; they are granted the statute or the constitution, and they follow the proper jurisdiction in resolve.

#### **Forms of Jurisdiction**

##### **Legislative jurisdiction**

Legislative jurisdiction is the authority of a state or a country to put into place laws to generate or move legal benefits. This jurisdiction is divided among the federal government and the semantic societies; the federal government has jurisdiction over foreign affairs, state protection, and justice. The primary responsibility of this jurisdiction is to police law enforcement bodies and security acumen activities across the board (Dorsett & McVeigh, 2012).

Legislative jurisdiction draws its powers from the constitution of a state, and it is given the rights to identify the breaches of rules and precisely take charge in such legal matters. Jurisdiction facilitated by first establishing the procedures to handle the breach and in that regard forcibly administering the consequences' of the breach pending hearing and sentencing.

### **Enforcement jurisdiction**

Enforcement jurisdiction is the ability of any state to scrutinize a situation, detain or prosecute and reprimand an individual with its territory or aboard a vessel provided it's a state's national citizen. It is the government or state's responsibility to maintain authority within the boundaries and the people within. Notably, all people within the <sup>2</sup>territory of a state are entitled to the protection of state and in that regard, and the state bears the tool to maintain law and order. People exposed to go against the laws of a state are therefore punished according to the set treaties of the enforcement jurisdiction (Dorsett & McVeigh, 2012). International law does not allow a state to exercise its enforcement jurisdiction outside its boundaries; this is because the individual found culprits are also protected by the enforcement jurisdiction of the state they are within according to international law. However, a state can obtain an agreement from international law accustomed, which may permit the same. Some offenses are punishable by death in some states like murder and adultery. Still, according to international law, the state may be in a position of restraint if the individual is not its citizen.

### **Criminal jurisdiction**

This is a jurisdiction whereby a state presents a defendant accused of committing a crime before a court of law. Criminal jurisdiction aides maintain a good relationship between different states. Wicked interaction or cohesion between two different states can affect operations such as

business interaction, and it can as well ruin the economy of the countries (Dorsett & McVeigh, 2012). It is much applicable where the state has a minor scope, a solitary, and an integrated arrangement of the law. In such states, it is the responsibility of the criminal jurisdiction to determine what case which court presides over.

### **Exclusive jurisdiction**

Exclusive jurisdiction is a civil procedure where a particular court is given powers to administer a case over all the other courts. In some states, exclusive jurisdiction allows the Supreme Court to overrule the sentencing or determination of the lower courts. This type of jurisdiction serves as the most-high platform where a state or an individual can seek justice. The charges are reviewed, and most individuals look up at the exclusive as the final hope before sentencing.

### **References**

Ryngaert, C. (2015). *Jurisdiction in international law*. OUP Oxford.

Dorsett, S., & McVeigh, S. (2012). *Jurisdiction*. Routledge.

**Question 2****Specialized Courts**

Specialized courts are courts generated with partial jurisdiction to focus and handle cases in one field of law. This is because not all cases in the courts require going through the same vigorous process as some are minor and requiring less time compared to others. Specializing cases saves space and workload for the judges and the legal practitioners, and this has aided in the workflow and running of judicial processes (Clayton & Jones, 2015). The main reason for the establishment of specialized courts was to reduce delays in hearing and determination of cases, reducing accumulations, and addressing the individual needs of the court users. However, specialization of courts is still met with some limitations such as inadequate specialized court professionals, limited knowledge among the court administrators, and inadequate resources to manage and run specialized cases concurrently. There are several types of specialized courts, and this includes; commercial courts, criminal and family courts, tax courts, industrial, environmental courts, property courts and traffic, and drug courts, among many others.

**Types of Specialized Courts****Commercial courts**

Commercial courts are specialized courts that were founded in 1998 as a section of the legal system improvement program instigated by the International Monetary Fund. The program's purpose was to do away with the old system that was overwhelmed with unprofessionalism and corruption in the courts (Lupu, 2013). This program required the judges to apply to the new system for bankruptcy administration, and this was looking forward to establishing a corruption-free regime and encouraging investors' confidence in the states. The

courts were forced to stand in place for commercial trials in different states, as stipulated in international law. Most of the commercial law courts share comparisons and several traits both imported from the old law and the adjudication domain.

**Tax courts**

This is centralized law courts that only hear and define tax-related arguments and matters. International law gives tax courts the expertise to deliver a ruling on a wide range of connected tax questions. Tax-related offenses range from delays or failure to submit income and reviews on collection actions (Lupu, 2013). However, most of the tax-related cases, for instance, in Canada, are in connection with income tax goods and service tax and employment insurance. These cases are settled before trial where the findings are tabled, and a judge gives a ruling according to the judgment, the decision may be appealed if the defendant is not contented.

**Industrial courts**

Industrial or labor courts are establishment mainly put into place to settle disputes between the management and the laborers. Industrial courts began in France in the 1800s and were developed in Germany from the factory to industrial courts in the late 60s. It is in these years that the labor courts were incorporated in government. These courts handled disputes on remunerations and work-related issues, and they also served as a board for adjudication.

**Drug courts**

Drug courts are judicially operated court labels that provide a sentencing alternate or management alternative combined with strict observation for people struggling with substance abuse and severe mental disorders (Lupu, 2013). Besides, these courts seek to rehabilitate the individuals affected with the help of the community. Administering the required help and, at the

same time, instilling discipline and responsibilities to affected using legal means. For that reason, the community and law enforcement agencies work together to help the affected get treatment and long term recovery.

#### References

Clayton, C., & Jones, A. K. (2015). Courts.

Lupu, Y. (2013). International Judicial Legitimacy: Lessons from National Courts. *Theoretical Inquiries in Law*, 14(2), 437-454.

**Question 3****Sentencing**

Sentencing in international law is the punishment that could be ordered by a trial court after all the other legal processes are passed; this is the final stage of judgment. Sentencing is given according to the intensity of the crime committed, and the witness and evidence laid before the judge. The ruling can involve a verdict of imprisonment or fine to the convicted person. In some cases, convicted persons can be sentenced for more than one crime; if this happens, the person can serve a concurrent sentence or consecutive sentence. A concurrent sentence is where the person gets the total period of all the sentenced cases. For some lesser wrongdoings, the sentence may be reduced to a less severe sentence and is said to have been alleviated. Sentencing has been widely rephrased to replicate modern legislation guidelines and jurisdictive decisions.

**Sentence Determination Factors**

During sentencing, if the judge has the decision to determine the ruling, the defense may bring to the attention of the judge factors that can move the judge to execute a lighter decree. The offender has little or no records of a previous criminal record (Ashworth, 2015). A judge may reduce the length of the sentence if the accused has not been involved in any criminal record before the current one. The judge may tend to assume the convicted had no intention of committing; putting into consideration it is the first offense before the court. On the other hand, if there is a history of crime, the judge may decide to lengthen and tighten the sentence for the offender. This is an aggravating matter which can compel the judge to punish the offender severely. Other factors that may affect the length of judgment were when the culprit was used as an accessory to commit a crime (Ashworth, 2015). In this case, an individual may not have

interacted with the crime directly or may have without having the information that was happening. A situation where a person is used as an accessory to commit a crime, the judge may be compelled to use the rule of mitigation to reduce the charges for the individual.

An occurrence where no one was hurt or no severe loss or damage was encountered may compel the judge to give a less severe verdict. Also, if the crime was done in a manner that was not intended to hurt anyone, this is a moving factor in sentence determination. Sentence determination also tries to consider in situations where a crime was conducted when the offender has insignificant mental stress. An offender may be in profound mental disorder occurring from stressful situations like job loss (Ashworth, 2015). Cases occurring when the offender is not in their right sentences may move the judge to give less severe judgments. Some of these cases include manslaughter, where one murders without the intention to kill. In such a case, an offender may be subjected to a mental screening process, and even though the results may show the individual does not have any mental disorder. In turn, the judge may evaluate the circumstances, and if no history of crime, he or she may be compelled to serve a less severe ruling concerning the subject of the matter. Sentencing has been a awkward area in the administration of justice, it is actually one of the areas that give judiciary a unscrupulous name. Administration of justice has been acknowledged that it does not only affect the offender but also the community at large. The sentencing should therefore be transparent, practical and conceivable.

Reference

- <sup>3</sup> Ashworth, A. (2015). *Sentencing and criminal justice*. Cambridge University Press.

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