



# The Law of State Immunity (Oxford International Law Library)

*QC, Hazel Fox, Philippa Webb*

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Revised and updated to include recent developments since 2013, the third edition of *The Law of State Immunity* provides a detailed guide to the operation of the international rule of State immunity which bars one State's national courts from exercising criminal or civil jurisdiction over claims made against another State. Building on the analysis of its two previous editions, it reviews relevant material at both international and national levels with particular attention to US and UK law; the 2004 UN Convention on Jurisdictional Immunities of the State and its Property (not yet in force), and also seeks to assess the significance of recent changes in the evolution of the law.

Although the restrictive doctrine of immunity is now widely observed by which foreign States may be sued in national courts for their commercial transactions, the immunity rule remains controversial, not only by reason of the recognition of a single State's right to deny a remedy for a wrong - China, a major trading State, continues to adhere to the absolute bar - but also by the exclusion of any reparation or relief for the commission on the orders of a State of grave human rights violations.

The complexity and moral challenge of the issues is illustrated by high profile cases such as Pinochet, Amerada Hess, Saudi Arabia v Nelson and more recently NML v Argentina in national courts; Al-Adsani v UK and Jones v UK in the European Court of Human Rights; and Judgments of the International Court of Justice in Arrest Warrant, Djibouti v France and most recently in the Jurisdictional Immunities of the State, which, particularly since the 2014 contrary ruling of the Italian Constitutional Court, has attracted strong juristic criticism. The expanding extraterritorial jurisdiction of national courts with regard to torture in disregard of pleas of act of State and nonjusticiability as in Belhaj and Rahmatullah offers a further challenge to the exclusionary nature and continued observance of State immunity.

Recent developments in key areas are examined, including: impleading; public policy and non-justiciability; universal civil jurisdiction for reparation for international crimes; the application of the employment exception to embassies and diplomats; immunity from enforcement and procedural measures; immunity of State officials, and tensions between national constitutional requirements and superior international norms.

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