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1. HIGH QUALITY.
2. BASED ON STANDARD SOURCES
3. POSSIBILITY OF DIRECT QUESTIONS
4. COMPLETELY SYLLABUS-ORIENTED.

# GRASPING THE DOCTRINE OF TERRITORIAL NEXUS WITH 5 CASE LAWS

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**GENERAL :** The distribution of legislative powers between the Centre and the States in India :

- Arts.243-255 decides - who and to what extent legislative power can be exercised by legislatures.
- Legislative power distributed on basis of 1. Territory 2. Subject-matter

**GRASPING THE DOCTRINE OF TERRITORIAL NEXUS WITH 5 CASE LAWS.**

*ART. 245. (1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State. **Parliament = India or any part of TOI ; LOS : Whole or any part of state.***

*(2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation. **WHY ? Coz we, as municipal courts, are never concerned about it.***

KANIA, C.J., in - **#CL 1 - A.H. Wadia v. Income-tax Commissioner:** "In the case of sovereign legislature, questions of extra-territoriality of any enactment can never be raised in the municipal Courts as a ground for challenging its validity. The legislation may offend the rules of international law, may not be recognised by foreign Courts or there may be practical difficulties in enforcing them but these are **questions of policy with which the domestic tribunals are not concerned.**"

**Can state legislature make extra territorial laws? It cannot. A State law can affect persons, properties or things within the State and not outside the State.**

**But there is a exception.**

"extra-territorial operation of a State legislation is **sustainable** on the ground of territorial *nexus*. Such territorial *nexus*, when pleaded must be sufficient and real and not illusory "

**#CL2-** State of Andhra Pradesh v. National Thermal Power Corporation Ltd., (2002) 5 SCC 203.

Sufficiency of the territorial connection involves consideration of two elements, viz.:

- (a) the connection must be real and not illusory; and
- (b) the liability sought to be imposed under the Act must be pertinent or relevant to that connection

**How can we find whether a law has extra-territorial operation or not ?** The doctrine of territorial nexus is applied to find out whether a particular State law has extra-territorial operation.

- **Not just physical but we need to prove - "sufficient and real territorial connection"**

**Confused ? huh? Classical example.**

**Eg: Company incorporated in England. A member of that comp. carried its business on India. At the end of year- we can see that most of its profit where accrued from India. Now India can levy Income Tax - as the comp had "sufficient and real territorial connection". #CL 3 Wallace v. Income-tax Commissioner, AIR 1948 P.C. 118.**

**#CL 4 - IT IS A QUESTION OF FACT. DECIDED ON CASE- BY CASE BASIS. Khyerbari Tea Co. v. State of Assam, AIR 1964 SC 925.**

**#CL5 State of Bombay vs RMDC :** X conducted competition through newspaper, which had published outside bombay. But X had collected entry fees from ppl of bombay + it is widely circulated in bombay. The state sought tax from X. He challenged the law of bombay w.r.t to extra-territorial nature. But state proved real connection + suff. territorial nexus.

THE END.