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A Presumption Against Extrajurisdictionality

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In deciding whether federal statutes reach outside the United States, the Supreme Court employs a presumption against extraterritoriality. Its jurisprudence construing the canon has been inconsistent, however, and lower courts have amplified the confusion. This article proposes that the Court look for guidance to the international law of legislative jurisdiction. A presumption against extrajurisdictional, rather than extraterritorial, application of federal statutes would be more predictable and would better comport with reasonable assumptions of congressional intent.

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