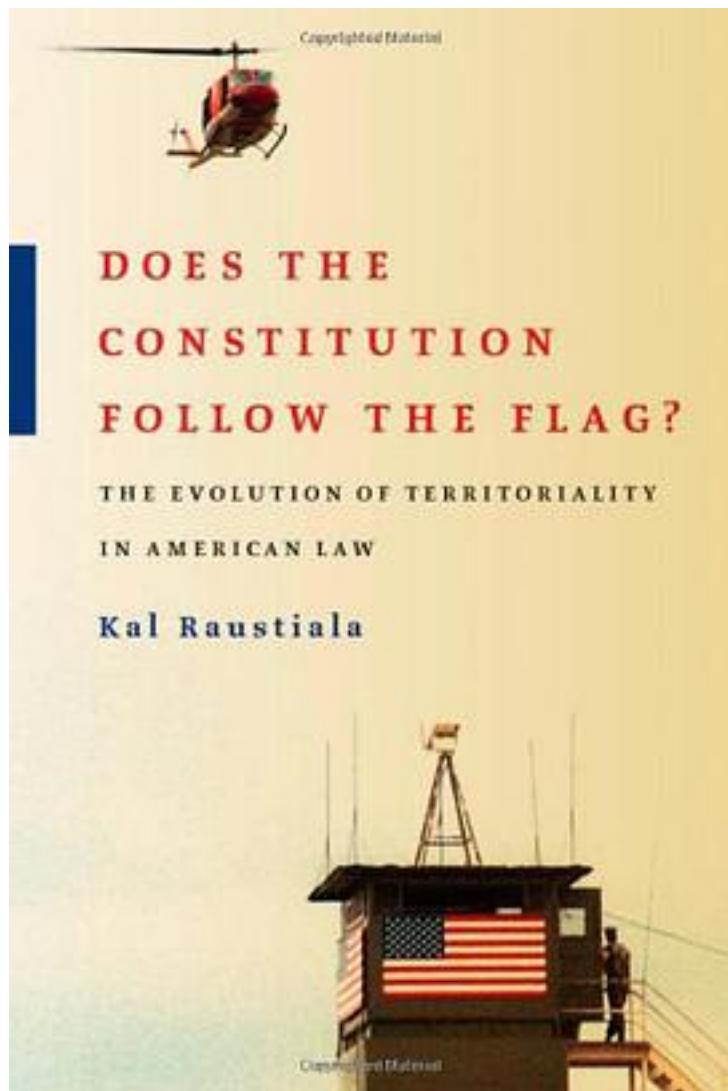


Does the Constitution Follow the Flag?



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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.

作者介绍:

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标签

评论

从Dred Scott, 到上海美国法院, 到关塔纳摩。宪法管辖权与国家边界之间的交错, 体现的是作为共和国的美国与作为领土国家的美国之间的张力。何时适用宪法、何时适用国际法更多体现为政治权宜, “美国为什么没有成为帝国”在此找到了一个更为历史化/实用化的解释。20世纪初的帝国转向与民族自决并起, 指向后人权政治时代的国际秩序。

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