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Prosjekttittel: Protecting Community Interests in International Law: Challenges and Prospects

Prosjektleder: Gentian Zyberi

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Sammendrag:

Phrases such as 'shared global values', 'common interests' and 'common challenges' are often articulated in international and regional fora. At the same time, contemporary international law makes use of concepts as 'common interests', 'common heritage of mankind' and 'international community as a whole'. Nevertheless, the scope and nature of these interrelated concepts are not so clear and forthright as their textual meaning implies. On a closer look, these concepts raise a number of important questions. What is the nature and scope of the concept of 'common interest' of the international community? How best to articulate and promote the collective concerns of the international community in a decentralized legal order that focuses mainly on the rights and obligations of sovereign States? Can contemporary international law mediate effectively between competing sovereign and collective concerns? And, is the protection of community interests supported by an adequate normative legal framework, institutional framework and accompanying institution-building processes? These are not theoretical queries, considering questions such as who should profit from the melting of the Arctic Ice Cap and who should be indemnified for the deleterious effects that climate change might cause; with whom lies the responsibility for stopping mass atrocities; and who should care for and be held responsible for lost world cultural heritage, which clearly have a tangible practical side to them. These are issues of serious concern to the existence and well-being of the international community as a whole.

Despite an emphasis on the rights and duties of individual States, international law has also supported efforts aimed at encouraging and strengthening international cooperation and solidarity among States. In noting their potential, Simma has pointed out that international treaties are the primary vehicles for protecting community interest in international law. Also, a number of international institutions have been established over time, whose aim is to safeguard community interests, rather than the interests of individual States. This research shall address three areas which are of heightened importance for the well-being and development of international community as a whole and which are going to figure prominently in the international agenda in the next few decades:

- a) Collective human security (with a focus on collective security systems and the responsibility to protect doctrine);
- b) Common heritage of mankind (with a focus on shared natural resources);
- c) Common cultural heritage (with a focus on the protection of world cultural heritage).

This research shall analyse the foundational theoretical basis of the concept of 'common interest' of the international community, study and compare the different systems created under these three broad legal areas, and draw conclusions and recommendations on contemporary challenges and prospects of realizing pertinent community interests.

Prosjekttittel: Authority Beyond States: European Institutions in International Perspective [AUSTAT 5]

Prosjektleder: Johan Karlsson Schaffer

Finansiør/utlysning: Norges forskningsråd, E.ON Ruhrgas-stipend i rettsvitenskap

Totalramme: NOK 50.000

Sammendrag:

1. Aims & objectives

This is an application for an E.ON Ruhrgas grant in order to partially fund the 5th AUSTAT workshop on 'European institutions in international perspective' to be held at the University of Bremen in September 2013. Substantively, the AUSTAT project studies the exercise of authority by international institutions from a multi-disciplinary outlook.

The project has three primary objectives:

1. To promote high quality research on international authority by arranging a series of workshops.
2. To encourage publication in international, peer-reviewed academic outlets.
3. To stimulate networking among young, promising researchers in political science, international relations and international law.

2. Project focus

In the AUSTAT series of workshops, participants investigate the growing exercise of authority by international institutions, within and beyond the wider framework of European integration. Thus, the project addresses issues of high relevance to both political and academic agendas in Europe. In the wider Europe, practice has long heeded scepticism towards the exercise of authority by European and international institutions. Outside the more closely defined framework of the European Union, several states, some of which with solid democratic systems, criticize the European Court of Human Rights for invading too far into formerly well-accepted domains of national sovereignty. New conflicts are bound to arise once the EU has formally decided to accede to the European Convention on Human Rights. Equally important questions arise from the newly created institutions aiming at the financial stability of the Union. The German Constitutional Court recently discussed the democratic legitimacy of the European Stability Mechanism (ESM) in its decision on the ratification of the ESM treaty. Others have raised questions about the legitimate expansion of EU powers via an international treaty, claiming that this violated the principle of conferral. The authority of international institutions has recently drawn much interest across the disciplines that study the international. It reflects both an empirical shift, with ever more international institutions expanding their authority over states and other subjects, and a theoretical shift, adding authority to the conceptual toolbox available to researchers. In political science, international relations and international law, scholars have relaxed what was long considered a foundational assumption about their object of study: The absence of authority and hierarchy in the international realm.

Reconsidering the concept of authority has opened fruitful agendas for research, studying for instance the provision of social order by hegemonic powers, the resistance by civil society to the growing authority of unaccountable international institutions, or the increasing numbers of international judicial organs, which sometimes expand their jurisdiction beyond their original mandates.

Against the backdrop of these political and academic concerns, the AUSTAT project addresses three sets of questions:

1. The nature of the growth of international authority: Are international institutions increasingly exercising authority over states and other international actors, and if so, how? How do such developments in institutional authority challenge established forms of democracy, the rule of law, or sovereignty?
2. The causes and effects of increasing claims to authority by international institutions: Why do states commit and defer to authoritative international institutions in the first place? Moreover, international institutional authority addresses a wide range of actors: governments, corporations, legal and bureaucratic institutions, civil society organisations and individuals. How do they react and respond?
3. The legal and philosophical implications of the increase in exercise of authority by international institutions. How must cross-cutting principles of law, such as proportionality or subsidiarity, be properly defined to regulate future expansions of authority at the supra-state level? To what extent can a growing exercise of authority by European institutions interface with efforts to promote human rights, constitutionalism, or democratic participation at various levels?