

Introduction to Special Issue in Honor of Geir Ulfstein



The *Nordic Journal of International Law* is Nordic yet international – situated and universal. Firmly based in the Nordic countries, it is a source of reflection on international law broadly – showing the value of such Nordic perspectives to understand and develop international law at large.

“Situated and universal” also describes Professor Geir Ulfstein to whom the articles of this special issue pay tribute. Starting with his first English language publication – in this journal – 40 years ago (200 Mile Zones and Fisheries Management, *Nordic Journal of International Law*, Vol. 52, Fasc. 3–4, 1983), Geir Ulfstein has contributed to the international debates on topics ranging from such Nordic themes as the Svalbard treaty, fisheries and petroleum production, the Sami People’s rights, and arctic wilderness – to such international topics as protection of the ozone layer, terrorism, treaty bodies, the European Court of Human Rights, deference by international courts, and the Constitutionalization of Public International Law. He has also maintained a solid situated presence in Norwegian society, co-authoring textbooks (Geir Ulfstein and Morten Ruud, *Innføring i folkerett*, Universitetsforlaget, 5th edn, 2018), and speaking truth to power in numerous media contributions.

To mark this extraordinarily broad range of scholarship in international law, the contributions of this special issue can address only some recurring themes in Geir Ulfstein’s oeuvre. Several of the contributions were originally presented at a conference celebrating Ulfstein’s 70th birthday, September 5–7 2021, fittingly held at Svalbard, under the auspices of the Centre of Excellence PluriCourts which Geir Ulfstein co-directs.

Robin Churchill, one of Geir Ulfsteins’ first co-authors (Robin Churchill and Geir Ulfstein, ‘Autonomous Institutional Arrangements in Multilateral Environmental Agreements: A Little noticed Phenomenon in International Law’, *American Journal of International Law*, Vol 94, No. 4, October 2000, pp. 623–660) addresses some implications of whether the Svalbard treaty also applies to its continental shelf and Fisheries Protection Zone (FPZ). Churchill discusses three principal issues where it might make a practical difference

– concerning oil and gas, snow crab, and Norway’s fisheries jurisdiction. Several such disputes might be resolved, argues Churchill, without determining the more general issue of whether the Treaty applies to Svalbard’s continental shelf and FPZ.

Ivar Alvik defends a conception of concessions in international law distinct from contracts. To regard concessions only as protected assets comes with a risk of ignoring their role as regulatory instruments. Such instruments give rise to distinct economic interests, be it by foreign nationals, concerning human rights in the European Convention on Human Rights, or for international investments. Such a license or concession does not, simply constitute property in the ordinary sense, nor is the binding commitment by the state best regarded as a contract.

In her article ‘Transparency Across International Courts and Tribunals: Enhancing Legitimacy or Disrupting the Adjudicative Process?’, Freya Baetens addresses a theme within Geir Ulfstein’s interest in constitutionalism and international law. She reflects on the need for various forms of transparency in the processes of international courts and tribunals, ranging from requests and submissions to hearings and compliance. While such transparency is well reasoned, other aspects of the adjudicative process sometimes counsel to restrict transparency. In many cases, Baetens argues, existing levels of transparency of international dispute settlements may thus be satisfactory – not only as a matter of what their statutes require, but as a matter of their overall legitimacy.

Jeff Dunoff identifies the interaction of two themes in Geir Ulfstein’s contributions: how treaty bodies engage in law making, and how such bodies collaborate and clash across different legal regimes, in formal and more informal ways, to yield innovative interactions. These include various governance functions – generating new normative standards or understandings, or new modes of operation. They also include responses to the interaction among international legal orders, be it to rationalize or to regulate conflicts concerning overlapping jurisdiction. Dunoff’s observations close the circle of Geir Ulfstein’s remarkable span of contributions: Dunoff argues that these are important yet little-noticed phenomena in international law – as important and as little noticed as Ulfstein’s early observations with Robin Churchill about autonomous international institutions.

The *Nordic Journal of International Law* and the editors of this special issue are grateful to Geir Ulfstein for his many contributions, on a remarkable range of topics. The themes Geir Ulfstein has addressed are situated and universal.

They are surely important, but due to Geir Ulfstein's efforts, no longer little noticed.

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