Introduction: A Nordic Approach to International Law?

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The Nordic countries have a long-standing tradition of collaboration on a wide range of legal issues. The Nordic Council of Ministers endeavours “to promote basic common principles in Nordic legislation”, and extensive inter-Nordic harmonization is now in place in areas as diverse as education, energy, taxation, culture, and gender equality. However, do these ‘shared Nordic values’ extend to embrace a common perspective on international law and policy beyond the Nordic region? And do international legal scholars in the Nordic countries share a professional outlook enabling us to speak of a distinct ‘Nordic approach to international law’? With generous support from The Danish-Norwegian Collaboration Foundation, The Carlsberg Foundation, and The Dreyer Foundation, international legal scholars and expert practitioners from Denmark, Finland, Iceland, Norway, and Sweden gathered at Lysebu outside Oslo for a two-day conference in August 2015 to discuss contemporary issues of international law from a Nordic perspective. In addition to the question of a distinct Nordic tradition within international legal scholarship, the conference call welcomed papers addressing various topics in international law from a Nordic viewpoint. From a wide variety of paper proposals, panels were organized around the following themes: ‘The Nordic Approach to International Legal Regulation of Natural Resources’, ‘Nordic Judges of International Courts’, and ‘the Nordic Approach to International Human Rights Law’. Moreover, a renowned international legal scholar from each of the Nordic countries was invited to give a key note lecture, and the five directors of legal affairs in each of the Nordic Ministries of Foreign Affairs presented their views on the conference theme in a round-table discussion.

Eight of the papers presented at the conference were published in a special issue of the Nordic Journal of International Law, Vol. 86, No. 4 (2016). The present book contains these eight papers as well as five additional contributions from conference participants. All chapters address aspects of the question of a Nordic approach to international law, varying significantly in terms of subject area, methodology and style.

In the opening chapter, Gregor Noll claims that the conference was “organized around a phantom pain”. Based on three examples concerning central questions in current international law, he first argues that little evidence exists
of substantive Nordic convergence in today’s practice. Noll goes on to show that in the “geopolitical heyday of Nordic international law”, the Nordics took a leading role in shaping and articulating an international law of neutrality. This issue, however, is of limited relevance today since the law of neutrality has been replaced by the law of collective security post World War II. The Nordics are therefore left in a state of nostalgia: “a mentality that is acutely mindful of past grandeur and therefore sees and laments present decay”. Reading this melancholic longing for a Nordic international law through Andrej Tarkovski’s 1983 film, Nostalgia, Noll finally asks how it might be transgressed.

Martti Koskenniemi’s essay describes the engagement by Finnish jurists with international law in the 20th century. He claims that international law had an exceptionally strong position in Finland in comparison to the other Nordic countries. By way of explanation, he refers to historical events, including the disputes concerning the Åland Islands and Eastern Carelia. Koskenniemi goes on to present the towering figures among 20th century Finnish international lawyers. His account for their principal writings and careers shows a strong tradition among Finnish international lawyers of combining academic endeavours with government service. Koskenniemi finds that, moving with ease between diplomacy and the academy, Finnish international lawyers have predominantly been “doctrinal positivists interested in legal aspects of Finland’s international position”.

Ove Bring’s chapter discusses the life and career of the second Secretary-General of the United Nations, Dag Hammarskjöld. Bring scrutinizes Hammarskjöld’s innovative approach to diplomacy in light of his personal background and philosophical outlook. The chapter shows that Hammarskjöld played a key role in shaping and developing the legal framework within which UN continues to operate today. With the examples of Hammarskjöld’s efforts relating to peacekeeping operations, humanitarian intervention, and the responsibility to protect, the chapter illustrates how Hammarskjöld – always striving to find the right balance between idealism and realism – exercised significant influence on the development of international law during the Cold War. Finally, Bring’s chapter describes the recent reopening of the investigation into the death of Hammarskjöld, thus demonstrating that his memory is indeed still alive.

Also taking a biographical approach, Astrid Kjeldgaard-Pedersen studies the voting practice of Nordic judges of the Permanent Court of International Justice and its successor the International Court of Justice. Focusing in particular on dissenting and separate opinions issued by the individual Nordic judges, Kjeldgaard-Pedersen queries whether common traits can be said to exist in their engagement with the World Court that might support the notion of ‘a Nordic approach to international law’.