

12. Mobilizing public interests: a pluralistic perspective

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Introduction

This project investigates the various manifestations, usages and mobilizations of “public interests” amongst various actors in the (legally) pluralist state with a principal focus on private actors. The currently detected scholarly bifurcation of public interests within legal settings, such is the project’s hypothesis, is an oversimplification. That is, in the pluralist state, merely to distinguish between two chief mobilizations of public interest, viz. one wherein public authorities – the state – mobilizes public interests vis-à-vis private actors with a view towards regulating the latter’s behaviour versus bottom-up self-regulation by private actors by way of transparently appealing to the need to promote public values (like sustainability), is no longer adequate. Increasingly, private actors invoke public interests in additional and novel ways, both vis-à-vis each other (i.e. other non-state actors), as well as vis-à-vis the state. Increasingly, too, this potentially leads to apparent stand-offs between public interests. These deadlocks pertain to such interests and values as sustainability, fair competition, and corporate fundamental freedoms and (or versus) individual fundamental freedoms and equality.

While it may be a matter of course that public actors do not have a monopoly on mobilizing “public interests”, this project addresses the question when and under which circumstances especially private actors’ appeals to public interests ought to impact (legal) conflicts involving public values. Legal pluralism in the more strict sense of the concept is even more apparent within the current area by taking into account in this research novel business modalities, including corporations premised on public values (‘public interest companies’, ‘community interest companies’) but also those private businesses that collectively appeal, as legal entities, to the public values enshrined within formerly strictly individual human rights discourse (such as “religious ethos companies” or “culture-based companies”). Also, (novel) instances of civil disobedience may be characterized by private actors’ assessment that they, under circumstances, may secure public interests better than do public authorities.

Within the wider ESL and EUR this project hence connects and resonates, among other research, with research into such areas as private actors & international law (with various projects within the ESL-IEUL department), human rights law (notably prof. Temperman’s EUR Fellowship-funded research project on corporate invocations of human rights standards), STEM research projects on respectively contemporary forms of civil disobedience (Prof. Van der Burg) and legal mobilization (Prof. Taekema, with EUR-ISS), and such areas of expertise as law & sustainability, competition law, and trade law.

Postdoc project

The postdoc shall be responsible as leading researcher for the project entitled "Mobilizing public interests: A pluralist perspective". This project investigates the various manifestations, usages and mobilizations of "public interests" amongst various actors in the pluralist state with a principal focus on private actors. The chief objective is to reassess the current bifurcation of the legal usage of public interests in the pluralist state. In so doing, the project shall, firstly, offer an empirically informed analysis of public interest mobilization by private actors so as to, secondly, propose a more complete (and complex) theoretical framework of the usage of public interests in the actor- and value-pluralist state. It is hence expressly envisaged that the project shall build towards a novel normative theoretical framework on the basis of which public interest mobilization can both be better explained analytically but also on the basis of which concrete instances of public interest mobilization can be assessed on their legal merits.

As these disciplines harbour the principal methods to be deployed, the postdoc shall have qualifications in the area of legal theory (especially in relation to non-state actors and public interests), and international and comparative law.

Empirical research

See also under *postdoc project*: This empirically-informed project on public interest (legal) mobilization relies on empirical legal studies especially in its first – descriptive – phase.