

APPLICATION FOR THE ESTABLISHMENT OF A NEW RESEARCH GROUP ON CRIME CONTROL AND SECURITY LAW

1. TOPIC OF THE RESEARCH GROUP

The research group on crime control and security law focuses on different judicial, quasi-judicial and non-judicial instruments of crime control on the national, regional and international level.

The *raison d'être* of public authority, that is, the safeguarding of freedom and human dignity of all individuals, can be seen in the notions of the social contract and the rule of law. A fundamental negative obligation of liberal rule-of-law states and international communities is to limit official (coercive) conduct that restricts human freedoms and poses a direct threat to human dignity. This is mainly achieved by incorporating the (constitutional) definition of individual and human rights into the law. At the same time, modern democratic states and institutions have the positive obligation to actively guarantee the unobstructed exercise of these rights. As a result, they are often required to implement security and coercive measures so as to prevent risks that might compromise freedom and human dignity and to protect the public from harm threatened from within and from outside a specific area. The control of crime is one major challenge in this respect. The administration and delivery of criminal justice is another: in addition to the provision of preventive instruments of crime control it is also necessary to maintain operational law enforcement and judicial systems geared to providing an effective and fair response to serious infringements of freedoms, individual rights and collective legal interests by other individuals and entities (Billis/Knust/Rui 2021). Individual freedoms and human rights guarantee, effective security and prevention mechanisms and operational justice delivery systems are essential in maintaining social peace in a modern democratic social system. But within this system two worlds are colliding, because the positive obligation to actively protect freedom and human dignity often clashes with the negative obligation to safeguard people's fundamental rights from institutional interferences. A proper balance between those two worlds has to be found in order to guarantee social peace in a liberal and modern democratic social system. How to create such a balance is one of the leading research questions of this research group. The balance between freedom and security in a globalised community is a key challenge for highly differentiated societies and its complex system of checks and balances (Billis/Knust/Rui 2021).

The objective of this working group is therefore to raise basic questions, to identify the colliding dynamics, major obstacles and key challenges to combat national and transnational crime and to discuss and analyse the applied models and mechanisms in contemporary criminal and security matters. Against this backdrop, this working group will examine different mechanisms and measures of crime prevention and repression on the national, regional and international level to provide a better understanding of their design, approaches and functions. Additionally, this research group aims to provide by its basic legal research results abstract/general legal policy recommendations concerning local, national, and transnational challenges.

Globalization and new technologies changed the existing realities of our social existence and permanently create new challenges for the nation states and the international community as a whole. Key players have prompted governments on the national but also regimes on the international level to re-evaluate their priorities and strategies in the fields of politics, economics,

and security and criminal justice. Unfortunately, this reconsideration was often against individual and human rights. In response to these latest form of threats, governments, international organisations and cooperating private actors tend to act proactively, resorting not only to the traditional means of criminal law but also preventive and security practices of a permanent or exceptional (turning into permanent) nature.

Against this backdrop, this working group aims at debating the relationship between fundamental personal freedoms and security in the light of change of the landscape of our social co-existence and recent developments in criminal justice and the security law architecture.

The main research focus will be on the analysis and comparison of new crime control mechanisms and regulations with a strong focus on large scale economic crimes and transnational organized crime.

2. NAMES OF THE LEADERS AND THEIR RESEARCH ACTIVITIES RELATED TO THE TOPIC OF THE RESEARCH GROUP

Nandor Knust will be leading the group. He has conducted extensive research in the field of criminal law, criminal justice, crime control and security law. Beside his research in the classical security law topics with an interlinkage of criminal law with administrative, police law, and International Humanitarian Law, he will lead the focus of the group also to security law and the use of new technologies. Nandor Knust and other members of the group are part of the Cyber Security Group of the computer science faculty of UIT – therefore, this group will also act as a permanent open exchange channel between the law and computer science faculty of the UIT. Additionally, the new established course by Jorun Rui will be one of the teaching tools to transport those new developments into the class room to teach the students about the interlinkage of law and data.

3. NAMES OF THE MEMBERS AND THEIR RESEARCH ACTIVITIES RELATED TO THE TOPIC OF THE RESEARCH GROUP

The research group will bring together researchers with ongoing projects within the group's research areas. Members of the group and their current research activities are listed below in English and Norwegian, pending on their working language. The group is following an inclusive approach: New researchers or even researcher projects with a plurality of researchers can join the group as long their projects touch the topic of this research group. Beside the research in the field of crime control and security law, all members are obliged to actively participate in the curriculum of the research group. In addition to those mentioned below Professor II Prof. Dr. h.c. mult. Ulrich Sieber will also be members of the group and participate in meetings and group activities. The group will have a strong interlinkage and interaction with the Max Planck Institute for the study of crime, security and law and the law faculty of UIB.

Members and projects of the UIT to be integrated into the research group on Crime Control and Security Law are:

A. UIT-PROJECTS

FORHOLDET MELLOM FORVALTNINGSSANKSJONER OG STRAFF

Stine-Karethe L. Jensen (Ph.D-prosjekt)

Summary: Overordnet er temaet for prosjektet forholdet mellom forvaltningssanksjoner og straff, herunder grensdragningen mellom disse ulike sanksjonsformene. Med en økende trend med avkriminalisering og mer bruk av forvaltningssanksjoner, som både ses i Norge og i Europa for øvrig, reises flere både prinsipielt og praktisk viktige spørsmål. Dette aktualiseres særlig i de tilfeller sanksjonssystemet er to-sporet, og hvor straffebudet og normen som ligger til grunn for forvaltningssanksjonen har like materielle vilkår/betingelser (for eksempel tillegsskatt og straff for skattesvik). Formålet med prosjektet er derfor å klarlegge tydeligere kriterier for hvordan gå frem reguleringsmessig, hvor både hensynene til effektivitet og retts-sikkerhet er balansert og tilstrekkelig ivaretatt.

TRUTH AND RECONCILIATION COMMISSION – HOW DOES A NONJUDICIAL PROCESS BECOME VALUABLE IN LEGAL AND JUDICIAL CONTEXT FOR IMPLEMENTING INDIGENOUS PEOPLE’S RIGHTS?

Anni-Kristiina Juuso (Ph.D-project)

(Text will be delivered)

ARTIFICIAL INTELLIGENCE IN CRIMINAL JUSTICE

Nandor Knust and *Jon Petter Rui* authors/editors (together with Emmanouil Billis (Athens/Freiburg))

Summary: This book project will bring together legal scholars, computer scientists and practitioners to examine and define problems, notions and the use of new technologies within the system of criminal justice. The interdisciplinary approach shall provide the possibility of a mutual understanding of the challenges and opportunities of the use of Artificial Intelligence in the criminal justice system. Therefore, interdisciplinary tandem teams will discuss and define specific keywords to generate a better understanding for different disciplines and personnel. One strong focus lies on the possible use of Artificial Intelligence to enhance the system of criminal justice and crime control by providing new results and support the decision-making-process of the system itself. Another focus will be the development and establishment of general ethics/rules and the compliance of minimum standards for the use of Artificial Intelligence within the system of criminal justice and crime control.

Time: 2021-2024

PROPORTIONALITY IN CRIME CONTROL AND CRIMINAL JUSTICE

Nandor Knust and *Jon Petter Rui* (co-Editors together with Emmanouil Billis (Athens/Freiburg)).

Summary: The principle of proportionality is a diachronic cornerstone of rule-of-law based systems. The goal of this project is the much-needed cross-disciplinary and cross-jurisdictional exploration of highly topical, proportionality-related issues pertinent to penal theory and legal philosophy, criminalization policies, security and anti-terrorism strategies, alternative types of justice delivery, supranational enforcement, as well as human rights and international criminal and humanitarian law.

Time: 2019-2021

NEW MODELS IN INTERNATIONAL AND NATIONAL CRIME CONTROL (Focus on ecological and economic crimes)

Nandor Knust (Monograph/Habilitation)

Summary: This project examines new models of international crime control by the analysis of the different multi-level approaches within the field of law enforcement and crime control. A special focus lies on public-private partnerships and the hybridization of international, regional, national and local mechanism into interactive pluralistic network approaches of international and regional crime control.

Time: 2020-2024

EFFECTIVENESS IN TRANSITIONAL JUSTICE

Nandor Knust (co-Editor together with Susanne Karstedt (Brisbane) and Chrisje Brants (Northumbria))

Summary: This book aims at exploring new perspectives on the effectiveness and achievements – in other words the impact - of transitional justice mechanisms, in particular the international and ad hoc courts. The debate on trials and prosecution has been dominated by two themes, concerns for victims, and the potential of deterrence. As necessary and legitimate as this is, we propose a set of wider perspectives that move away from victims as the sole purpose of transitional justice, and deterrence as the main mechanism. We in particular want to explore the relationship between the aims of justice and its effectiveness. What does effectiveness mean and imply when applied to prosecution and trials of perpetrators? What is the relationship between effectiveness and the legitimacy of justice? What can be achieved in the interest of justice itself, and how can this be defined?

Time: 2020-2022

MARKEDSMANIPULASJON

Bjørn Løvteit (Post.Doc-prosjekt)

Summary: Formålet med forskningsprosjektet er å beskrive, analysere og vurdere reglene om markedsmanipulasjon. Markedsmanipulasjon innebærer en forstyrrelse av mekanismer på finansmarkedene på en måte som medfører at markedsbildet fremstår annerledes enn realiteten. Markedsmanipulasjon er, sammen med innsidehandel, en av de mest alvorlige formene for markedsmissbruk, og kan føre til flere år i fengsel. En sentral underproblemstilling for prosjektet er hvordan grensen trekkes mellom markedsmanipulasjon og lovlig aktivitet. En annen underproblemstilling er hvorvidt de norske reglene om markedsmanipulasjon oppfyller Norges forpliktelser overfor EU. Nok en underproblemstilling er hvorvidt strafferettslig sanksjonering av markedsmanipulasjon ligger innenfor rettsstatlige skranker. Metoden for prosjektet kan i hovedsak beskrives som rettsdogmatisk.

TERRORISM: THE CHALLENGES CREATED BY THE ABSENCE OF AN INTERNATIONAL, UNIFIED, LEGAL DEFINITION OF THE CONCEPT AND AN ELABORATION ON THE POSSIBLE EXISTENCE OF SUCH A DEFINITION WITHIN CUSTOMARY INTERNATIONAL LAW

Tove Wulff Nilsen (Ph.D-project)

Summary: The thesis is focusing on the challenges of the lack of a unified legal definition of the concept "terrorism" and seeks to answer whether it does exist a definition, despite the contextual lack of such, through International Customary Law. During the research an extensive amount of sources within International Court practice, UN resolutions, statutes and regulations will be analyzed and compared. As for now the methodology is mainly doctrinal and the project has its definite gravity towards International Criminal Law but there are also elements of International Humanitarian Law (war crime) and some elaborations are crossing the terrain of political science during the process as well.

REELLE RETTIGHETSHAVERE I HVITVASKINGSREGELVERKET – I OG UTENFOR EU

Alexandra Olsen (Ph.D-prosjekt)

Summary: Prosjektet skal redegjøre for og analysere hvitvaskingsregelverkene innenfor EU og noen utvalgte land utenfor EU. Formålet er å finne ut hvilke krav som stilles til identifikasjon av reelle rettighetshavere, og vurdere regelverkene hensiktsmessighet *de lege ferenda*. På et overordnet nivå er det et spørsmål om hva som menes med «kontroll» og på hvilken måte man kan identifisere hvem som innehar en slik posisjon i juridiske personer, juridiske arrangementer og overfor fysiske personer.

DATA PROTECTION LAW (University course UIT)

Jorun Rui

Summary: The technological developments make it possible to process data in ever-increasing complex and efficient ways. This has caused an increased focus on legal protection of personal data. Data protection law is a rapidly developing field, which involves a multitude of international legal instruments. The pace of technological change, automatic data processing and the digitization of society, mean it is assuming an increasingly critical role in our lives today. It regulates everything from legal responsibility for cyber-security breaches, to how social networking sites store and share data and even how its users share information about one another or others. Personal data is becoming a valuable asset. Data protection law seeks to strike a balance between protecting the rights of individuals, whilst also facilitating the movement and use of data by organisations and states.

The course offers a broad introduction to data protection law, and a more specific focus on selected key substantive topics, particularly in the context of distributed computer networks, such as the Internet. Hence, themes such as legal-regulatory issues related to surveillance and the increasing automatization of decision-making processes will be addressed.

The course focuses mainly on the EU directive and regulation on data protection and the main rules and mechanisms of these legal instruments, including the central terms, scope of regulation, applicable law, data protection principles, legal basis for processing, rights of the data subject, transfer to third countries, sanctions and control mechanisms, and data protection in the context of police and criminal justice.

INDUSTRISPIONASJE

Jorun I. Rui (monografi)

Summary: Den teknologiske utviklingen innebærer at vår kunnskap blir mer sårbar. Tilfeller av spionasje fra utenlandsk etterretning og andre aktører mot norske bedrifter øker ifølge de årlige trusselvurderingene fra PST og E-tjenesten. Flere lands etterretningstjenester innhenter informasjon om ulike forhold i Norge. Utenlandske etterretningstjenesters interesse for olje- og gassvirksomhet har utgjort en særlig trussel for norske interesser, men i de senere år er også akademia og annen innovasjonsrettet virksomhet i økende grad utsatt. Og aktivitetsnivået er høyt. Norske bedrifts- og forretningshemmeligheter er dermed sårbare, ikke bare for konkurrerende bedrifter i inn- og utland, men også for utenlandske etterretningstjenesters virksomhet. Samlet tilsier dette at det er behov for å gjøre opp rettslig status. Denne fremstillingens hovedoppgave er å klarlegge hvordan vi rettslig sett beskytter norske bedrifts- og forretningshemmeligheter mot industrispionasje. Derneft drøftes det hvordan vi eventuelt mer hensiktsmessig kan beskytte norske bedrifts- og forretningshemmeligheter – sett i lys av det eksisterende virkelighetsbildet. Sistnevnte forutsetter undersøkelser av eksisterende og mulige systemer for «compliance» samt utenlandsk rett.

Time: 2020-2023

UNIVERSAL JURISDIKSJON

Marie Vangen (monografi)

(Text will be delivered)

EFFECTIVE PROTECTION OF CIVILIANS IN TIMES OF LARGESCALE CONFLICTS – THE INTERACTION OF INTERNATIONAL SANCTION REGIMES AND INTERNATIONAL HUMANITARIAN LAW: A CASE STUDY ON SYRIA

Khalil Mohammad Wannous (Master thesis within the Master's Degree Programme in Peace and Conflict Transformation (MPCT) - Centre for Peace Studies - Faculty of Humanities, Social Sciences and Education University of Tromsø)

(Text will be delivered)

B. External Projects with a link to the group

BOOK SERIES: ROUTLEDGE SOCIO LEGAL FRONTIERS OF TRANSITIONAL JUSTICE

Nandor Knust is book Series-Editor together with Susanne Karstedt (Brisbane) & Chrisje Brants (Northumbria).

Summary: The series addresses the future potential, developments and success of transitional justice and its multi-faceted approaches. To this end, it focuses on the socio-legal aspects of transitional justice in the widest sense.

EUROPEAN CRIMINOLOGY GROUP ON ATROCITY CRIMES AND TRANSITIONAL JUSTICE (EACTJ)

Nandor Knust is chair of the EACTJ together with Andy Aitchison (Edinburgh), Barbora Hola (Amsterdam), Kjersti Lohne (Oslo) and Alette Smeulers (Groningen).

Summary: The European Criminology Group on Atrocity Crimes and Transitional Justice (EACTJ) provides a network for European criminologists who are engaged in research on atrocity crimes and transitional justice, whether in or on Europe, or globally.

AFRICA AND RULE OF LAW: AFRICAN NETWORK OF LEGAL SCHOLARS IN THE FIELD OF RULE OF LAW

Nandor Knust is chair together with Roland Adjovi (Cotonou/Arusha)

Summary: Database within the African Foundation for International Law for African Scholars in the field of International Law, International Criminal Justice, Regional Criminal Justice, Transnational Law, International/Transnational Law Enforcement, Comparative Law and Transnational Criminal Justice.

JUSTICE 360: “GLOBAL ATROCITY JUSTICE CONSTELLATIONS”

Nandor Knust (German Representative/Responsible Outreach Global South)

Summary: “Global Atrocity Justice Constellations” (JUSTICE-360) is an Action of the COST Association funded by the European Union (EU) from 2019 until 2023, with the reference number CA18228. JUSTICE-360 focuses on International Criminal Courts and Tribunals (ICTs), aiming to reverse the adjudicating-focused and ICT-centered analysis dominant in popular and political discourse, instead of analyzing how ICTs are received in domestic contexts and how this reception shapes the space in which they work. The Action offers a panoramic 3600 view of global atrocity constellations to understand how ICT ideas and practices are received in domestic settings and how this shapes global responses to international crimes, victims and perpetrators.

Time: 2019-2023

NUREMBERG GUIDING PRINCIPLES FOR NON-PUBLIC INVESTIGATIVE BODIES IN THE FIELD OF INTERNATIONAL CRIMINAL AND HUMANITARIAN LAW

Nandor Knust (founder and member of the project together with William Wiley (The Commission for International Justice and Accountability - CIJA) and Klaus Rackwitz (International Nuremberg Principles Academy).

Summary: These Guiding Principles set out a number of ethical and professional standards which inform the criminal-investigative and -prosecutorial activities of public bodies and to which, as a consequence, non-public, investigative bodies which engage in the criminal investigation of violations of international criminal and humanitarian law shall conform.

Time: 2019-2022

PARTFIN: PUBLIC-PRIVATE PARTNERSHIPS ON TERRORISM FINANCING

Nandor Knust (rapporteur/author of the part: Socio-Legal Findings on Public-Private Corporation)

Summary: EU Project on Public-Private Partnerships on Terrorism Financing. The Socio-Legal Findings are part of the general policy recommendation and manifest the foundation and guiding outline for country reports for Germany, France, Italy and Spain.

Time: 2019-2023

4. PLANNED ACTIVITIES AND USE OF RESEARCH FUNDING

The research group will bring together researchers with on-going projects within the group's research areas to regular meetings and activities to facilitate research cooperation by organizing seminars, workshops and opportunities to discuss work in progress and topics of common interest. Another objective will also be to create a strong linkage to research groups with overlapping interests within the UiT Law and also UiB and UiO Law.

a. Curriculum

The Research Group on Crime Control and Security Law will have a fixed curriculum which consists of two main parts:

- (1) Monthly Colloquium and
- (2) Annual Workshop.

Those two different modules shall support the group members with their individual research projects (such as PhD, Post-Docs, etc.) but also help to establish new (common) research projects even with other research groups of the UiT Law and UiT.

1. Monthly colloquiums/meetings

These meetings include yearly reports of every group member on the development of their research projects, such as PhDs, Post-Docs, other projects (results). In case of PhD presentations, the (possible) external supervisor may be invited to the colloquium if she/he is not part of the group. Furthermore, it shall act as a general communication hub and exchange tool to discuss recent developments in the field of crime control and security law. These monthly activities also include the possible invitation of external speakers/researchers. Also, the direct interaction and invitation of our research groups of the UiT is a key aim of those monthly meetings – but also the work of the research group in general.

2. Annual Workshops / Conferences

We plan to arrange a research seminar or conference each year. The first idea is an annual workshop with the Max Planck Institute for the study of Crime, Security and Law in Tromsø and/or Freiburg, Germany. Of course, this activity is based on available additional funding. All these activities are also open for external personal and is not only limited/linked to the members of the research group. The results of those workshops/conferences shall be published in edited volumes, international journals or monographies.

b. Exchange Program

The Working Group on Crime Control and Security Law tries to establish an exchange program with academic institutions and international organizations. The Law Faculty of UiB, the UiO, the Max Planck Institute for the study of Crime, Security and Law, Max Planck Law, University of Athens as well as the University of Oxford already signaled the interest of an exchange program. Additionally, the group plans to create a cooperation with external international and regional organizations, such as the International Criminal Court, African Court on Human and Peoples Rights and the European Court of Human Rights. Members of all institutions have already agreed to support the research (also teaching) activities of the research group on Crime Control and Security Law.

c. Publication

We plan to collaborate regularly on publishing and dissemination in the research group's subject area. The Routledge Book Series on socio legal frontiers of Transitional Justice is part of this research group. Additionally, the group has a strong link to the German Law Journal.

5. OVERALL AMBITIONS FOR THE RESEARCH ACTIVITY OF THE RESEARCH GROUP AND HOW THESE FIT INTO THE STRATEGIC PLANS OF UiT AND THE FACULTY

UiT Law is already a research-driven faculty with researchers and research groups that are highly innovative and at the international research frontier in their fields. The research group on Crime Control and Security Law fits perfect in the already highly innovative landscape of the legal research within the UiT law faculty. The research focus of this group is at the international research frontier in the field of law by analyzing a shift in the "Realpolitik" in combatting new forms of criminality. Even if traditional legal research lies in the heart of the research group; the overall research conception is leaving the pure legalistic approach by the additional integration of computer science, political science, sociology and criminology into the focus of the group to generate an interdisciplinary approach by an inter-faculty structure of the group. Beside the possible application to become a level 2 research group – the research group will work strategically towards being in position to apply for external funding to international research projects. The components we will work on in order to achieve the strength to participate in national and international calls for research funding: A focus on publications, group members reaching full professorship, and developing relations to possible partners.

In its strategic plan for 2018-2022, the faculty identifies two areas that are of particular relevance to our proposed research group; Community development and democratisation and technology. The research group on Crime Control and Security Law has a strong focus on "[t]he internationalisation of law with particular focus on separation of powers, human rights and issues pertaining to international law" and also deals with "[n]ational and international legal mechanisms for resolving conflicts", as described above.

The faculty's strategic plan states that "[n]ew technological solutions provide new legal opportunities and challenges. The Faculty of Law will develop knowledge on [...] privacy in the digital information society." The newly established course on data protection law by Jorun Rui, several of the ongoing projects, a close interaction with the faculty on computer science and the integration of Prof. Sieber as one of the leading international experts in the field of cybercrime as a fixed member of the research group on Crime Control and Security Law will certainly generate such knowledge and will create a research hub for academic connectivity.

6. THE SIGNIFICANCE OF AND RELATIONSHIP WITH EXISTING RESEARCH GROUPS AT THE FACULTY

From the purely descriptive outline of the research group on Crime Control and Security Law there are no direct overlaps with existing research groups at the UiT law faculty. We have also addressed this in e-mails and conversations with the Dean of Research. And beforehand possible overlaps were discussed with other research group leaders. Those leaders evaluated the proposal of this new group and decided that this group has no overlap. But this shall not be seen as an exclusive approach of the research group which is isolating the research of the group only to the active members of the group. Moreover, the group follows the idea to create academic connectivity to other research groups at the UiT law faculty and other UiT faculties.