

One of the key contexts in which States *are* expected to show some regard for interests of other States, foreign individuals and foreign communities, is in their use of territories, processes and goods described as (of) 'the (global) commons'. Yet there is little clarity on what qualifies as a commons and why; the scope of the regard that must be shown; or why regard must be shown at all. 'The commons' is conceptually underdeveloped in theory and in international law. While some legal regimes are described expressly as pertaining to a commons, it is unclear how that fact shapes—or should shape—their features; whereas other regimes, concerned with resources that seem relevant for communities and States other than those to which they are connected, are simply not identified as relating to the commons. Due to the lack of an adequate conceptualisation, we deny ourselves the benefit of an idea that could radically alter our perception of how we, as global peoples, should share advantages and problems amongst ourselves.

The concept of the commons needs rejuvenation via a careful assessment of what it encompasses, and why. Revisiting the concept will require a full and candid assessment of why, in the first place, do we classify specific areas, or resources, as the (global) commons, and in the second, what rights and obligations follow for States from such classification. This is, of course, a mammoth project, and not one to be accomplished from an (international) legal perspective alone. But, the (international) legal perspective can advance the project to a significant extent, because it focuses attention on the complex of rights and obligations that do, and should, follow for States—*vis-à-vis* other states, foreign individuals, foreign communities and, not least, their own citizens—in relation to resources that come to be classified as of the (global) commons. It also elucidates the standards of accountability and responsiveness that apply to non-State actors, and why they do so.

One effective way in which we may begin to explore these issues is by tracing a genealogy of the ideas, concerns, and events that have influenced the classification as such of any one of the so called commons. I propose to make this attempt with respect to the seabed, examining how it came to be viewed as 'the common heritage of mankind' and to be associated with specific ideas of its sharing and use. Such a genealogy might not only render more explicit the economic, political, moral and legal considerations that underlay the classification and elaboration of the UNCLOS regime for the seabed as a commons, but also provide broader insight into the concept of the commons, its underlying rationale and resultant legal obligations, and so challenge settled understandings about other domains and resources as well.