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A Rechtsgutstheorie Lens on the Legal Aspects of the States' Cyber Interest Concept

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Abstract

Objective: to show the evolution of the state interests concept and its application in cyberspace, where it turns out to be fundamental for the development of state military policy aimed at protecting national interests.

Methods: the research is based on the intersection of the theory of law and the concept of cyber interests of the state through the prism of the theory of legitimate interests (Rechtsgutstheorie). The latter was originally developed within the criminal law science, but with prospects for studying the concept of state interests in cyberspace. The application of the theory of legitimate interests made it possible to study the state cyber interests concept and determine its legal classification and applications. In particular, the theory of legitimate interests in this study is used to explore the legal perspectives of the concept of state interests in cyberspace as interests subject to legal protection.

Results: it is determined that in the dynamic landscape of cyberspace, there are multifaceted interests of states related to national security, economic prosperity, sovereignty and diplomacy. To ensure their protection, states initiate strategies that generate a variety of political and legal consequences in international relations. This fact determines the importance of studying the concept of state interests from a legal viewpoint, as well as their legal status and consequences. Parallels are drawn between the concept of protected legal interests within the theory of legitimate interests and cyber interests that states seek to protect. The theory requires balancing the competing interests; hence, its applicability to the actions of the state in cyberspace is considered. The obstacles are identified, that hinder applying the theory of legitimate

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interests to cyberspace, including difficulties of attribution, damage thresholds and the need for global consensus. The author shows the evolution of the concept of state interests, which determines the possibility of its application in cyberspace, where it serves the purposes of developing state policy aimed at protecting national interests.

Scientific novelty: it is expressed in the reflection of the theory of legitimate interests to the formation of the legal concept of cyber interests of the state, which serves as a sufficient justification for the protection of specific cyber interests.

Practical significance: the main conclusions outlined in the article can be used to identify cyberspace interests subject to legal protection (such as confidentiality, data integrity, sovereignty, and economic stability). They may also improve legal mechanisms for protecting national interests in cyberspace, ensure uniformity of relevant international judicial practice, and improve the efficiency and quality of state policy management in cyberspace in order to ensure security and peaceful coexistence.

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Introduction

Among the determinants of a state's success is the ability to satisfy and secure critical needs required for the welfare and prosperity of the citizenry and the functionality of the state's strengths in the international community. Those factors combined formulate the conception of the state's interest. In politics, it could be observed that interests are

the momentum to impose national strategies and policies that influence international relations. They constitute the chief axis of international relations, which points out the prominence of their conception from a political perspective. Nevertheless, the *prima facie* impacts of this concept in politics never overshadow the true legal aspects that should be explored. Several legal questions can be triggered when studying the impacts on the state's cyber interest concept regarding its classification and legal impacts.

The inevitable synergy between politics and law concerning the concept of the state's cyber interest drives the research to elect a certain legal theory to study this concept through its perspective. The search within law branches reveals that criminal law has adequate theories and notions to carry out the research mission. Theorized originally by German scholars, the research utilizes the theory of protected legal interests – the *Rechtsgutstheorie* – to explore and profile the concept of the state's cyber interest and determine its legal classification and the effects of reviewing it through a specific legal theory. The broad normative of criminal law along with its flexible applicability encourages the research to choose a criminal law theory to answer its question, which the *Rechtsgutstheorie* contributes to analyze and determine. Furthermore, the literature discloses that this theory achieves an effective role in criminal legal matters, regardless of the scholarly critiques for being domestically originated. Thus, the research adopts it to explore the legal perspectives of the concept of the state's cyber interest and introduces it as a protected legal interest.

1. Evolution of the Concept of State's Interest in the Digital Realm

The notable divergence in nature and context between the real world and cyberspace affects the perspectives from which the concept of state interest is reviewed. While in the former traditional scholarships overwhelm the explanation and interpretation of this concept, highlighting the realistic characteristics of interest concepts, in the digital realm of cyberspace one can undoubtedly notice the impacts of the prevailing technological atmosphere on the aspects of this concept. Thus, the study should divide relevant scholarships on the concept of state interest into traditional doctrine focusing on the prevailing understanding of this concept in the real world and the other section reveals the effects of cybernetics on contemporary literature on the interest concept.

1.1. Traditional Understanding

Deriving from the basic humanitarian endeavor to achieve advantages and avoid casualties the concept of interest was created to express this objective. Wang (2022) explained that human needs, desires, and aspirations are the momentum for the existence of interests, and satisfaction is required to maintain the integrity of humans. To sustain and enhance human life, meeting basic needs is crucial. Nonetheless, at its

core, satisfying needs involves obtaining desired objects through specific methods. Whilst the need to manifest the psychological motivation for the pursuit of interests, the latter reflects realistic attempts to satisfy those needs through human interaction mechanisms, e.g., production, trade, and diplomacy (Wang, 2022). In addition, individual interests perform as incentives for the human's best exploitation of available resources to achieve benefits (Thomas, 2023); fragmentation of interests contributes crucially to realizing global welfare and prosperity. As a nexus between needs and means, interest represents the fusion of human needs and the methods to fulfill them. Furthermore, interests have a social aspect that showcases a tight relationship between the state and its citizenry.

Regarding states, interests as a social phenomenon pertain to national requirements that fulfill domestic needs, often in opposition to the interests of other states (Abdelkarim, 2024). The term "national interest" can be elusive, as its interpretation varies depending on the context of its utilization. Statesmen and policymakers wield it to justify their actions and defend their policies. Given that states may vary in their criteria for identifying interests, conflicts of interest arise in which states utilize a variety of tools to defend their interests (Thomas, 2023; Topor, 2024). Consequently, interests shape state behavior on the international stage to ensure their needs are met. Since formed by a unified group of human needs, the state's interests represent a common national objective (Wang, 2022). The similarity of fundamental needs of a given social group justifies this feature of the state's interests. In addition, Common interests manifest publicly within specific social relations, and this publicity varies in meaning across different social and interest relations (Wang, 2022). It can refer to the shared content of interests among the subjects within these relationships. A strong example of common interests is the social need for external security. Pointing out their contribution to world stability, Onditi (2023) considered interests a chief tool that determines the shape of global inter-state diplomacy and conflict resolution methods. Maintaining national interests is the true end of diplomacy and the true reason for the grave diversity witnessed among states in this aspect.

Moreover, Wang (2022) claimed that common interests are united within a social group. The unity of common interests implies that within a specific interest relationship, common interests are typically unique. This unity of common interest forms the basis for public political power within a particular scope and is grounded in specific interest relations in social and political life. It is prominent to note that while common interests are distinct within a particular society and interest relationship, this does not preclude the possibility that these specific common interests encompass various aspects of actual content and value.

The states' interests represent an inter-connected group of needs and objectives that national governments seek to satisfy through several methods, such as diplomacy and legal or armed conflicts. According to Metea (2020), to qualify as national, interest should be broad, transcending narrow contexts, and must demonstrate resilience over time against alteration by temporal shifts. Then, national interests emerge from a complex interplay of enduring, broadly applicable concerns, ensuring the stability and success of a nation, whose satisfaction reflects the strength of a given state and the level of power it should maintain or acquire on the international stage to protect national interests. Concurrently, Cox (2021) posited that interests have emerged as a central focus in social sciences due to their role in shaping collective emotions within a community. Consequently, interests represent the collective motivation of a group, prompting national authorities to take protective actions.

Despite the ambiguity of this concept, the prominent US politician Samuel Huntington defines national interest as "a public good that concerns everyone, or most citizens; a vital national interest is that interest for which they are willing to shed their blood and spend their wealth to defend it. National interests usually combine security with material concerns, on the one hand, and moral and ethical concerns, on the other" (Huntington, 1997; Metea, 2020). According to McLean and McMillan (2009), the concept of national interest encompasses various dimensions and serves as a critical framework in both political discourse and foreign policy analysis. For the former, politicians heavily utilize this concept to garner support for specific actions. Within domestic policy, its persuasive power is limited due to diverse opinions. Nevertheless, in foreign policy, it conjures an image of the nation defending its interests in an anarchic international system, which constitutes a standard to determine the strength of a state in the international community (Thomas, 2023).

1.2. A Novel Reality in the Cyber Era

The emergence of cyberspace has provoked unsettled debates on determining its impacts on human interactions and the potentiality to enforce changes in the landscape of international relations (Foulon & Meibauer, 2024). Being an open-access universal liberal sphere of interactions, cyberspace offers fertile soil for lucrative opportunities to grow and spread benefits among users (Thomas, 2023). Thus, dozens of various interests are being generated as data streams across the Internet, complicating the nature and core of human interactions.

As cyber capabilities and the logic of cyberspace expand, they alter how states interact within the international system, considering the impacts of free cyberspace attitudes (Thomas, 2023). Unlike earlier technologies like the telegraph, which merely sped up communication, cyberspace enables direct and immediate interactions between

governments and foreign populations. This widespread access to cyberspace acts as a distributed capability but does not change the fundamental principles of state behavior, which are still driven by anarchy and material power distribution. The universality of cyberspace, inter alia its powerful capabilities and unique structural setup that provided limitless resources, elevated the consequences of human interaction therein to a cosmopolitan level, exceeding, therefore, the limits of bilateral interactions. Indeed, the material and ideational dimensions of cyberspace, influenced by factors such as strategic culture and resource availability, are utilized and dominated by certain actors more than others. This unequal control makes cyberspace more beneficial for some actors compared to others. Consequently, cyber diplomacy has emerged in the sphere of international relations as a burgeoning international practice aimed at creating a cyber-international society, harmonizing the national interests of states with the dynamics of global society (Topor, 2024).

In the international theatre, states are the chief actors according to the national interests of each state. They pursue those interests through an anarchic scheme depending on the state's geopolitical power and technological superiority (Foulon & Meibauer, 2024), which constitute the crucial factors determining states' behavior in cyberspace. The wealthiness of data availability in cyberspace formulates a structural modifier influencing international relations because of the ultimate power of technological superiority utilized to control data on the Internet (Foulon & Meibauer, 2024), granting the concept of state interest a novel dimension featured by cybernetic characteristics. Furthermore, cyberspace influences how structural factors are experienced and perceived, similar to how nuclear weapons have not altered the basic logic of state behavior but have changed perceptions of threats and capabilities. Consequently, cyberspace affects the dynamics of international relations, shaping the constraints, incentives, and behaviors of states. In the context of cyberspace, this implies that each state will act to fulfill its national needs online, with cyber behavior driven by these interests (Abdelkarim, 2024). Therefore, reality showcases the critical impacts of the concept of states' cyber interests on drafting inter-state policies and international relations. Furthermore, national interests manifest the momentum for states to intervene and draft their policies in cyberspace (Topor, 2024). Studying states' approaches reveals hastened endeavors to crystallize authority according to national interests to protect their critical infrastructure, such as power grids, financial systems, and communication networks, from cyber attacks as well as achieve economic advantages through the available opportunities in the digital environment.

It should be noted that acquiring powerful technological abilities is not a requirement for a state to pursue its interests in cyberspace since inflicting an effect does not need

more than mere simple Internet access tools. This status enshrouded national interests in cyberspace with great danger because the weakest Internet user can inflict severe damage on a state's interests (Abdelkarim, 2024). Thus, defending the integrity of national interests implies admitting their cybernetic theme to guide the state to the most appropriate methods to maintain them. Moreover, the state's interests primarily drive nationalism in cyberspace (Cox, 2021). When a state's cyber interests are threatened, national intervention becomes necessary to protect the integrity of national benefits. This aligns with the fundamental principles of sovereignty and nationalism in cyberspace. Additionally, threats to state cyber interests can lead to cyber warfare, characterized by mutual cyberattacks across state cyber borders to defend national economic and military assets (Fang, 2018). Such threats necessitate prompt state responses to safeguard national interests.

In an official report, the US Government Accountability Office highlighted the urgent need to develop a national cyber diplomacy strategy to safeguard state interests in cyberspace.¹ This report marked an official governmental acknowledgment of the concept of state cyber interest and employed it to shape national cyber diplomacy. As a result, the notion of state cyber interest is now firmly established in political and diplomatic arenas to handle challenges and protect national interests. Abdelkarim (2024) solidified this conclusion as he claimed that the notion of state interests in cyberspace has evolved to shape the foundation of state cyber policies. The flexibility of its core principles concerning cyber interactions enables this concept to serve as a determinant of state authority in cyberspace. In the same context, Reiterer (2022) argued that the state's cyber interests should be the core axis of cyber diplomacy to safeguard national integrity in cyberspace. As he indicated, the continuing development of cyber threats implies concentrating on the deployment of the latest technologies as a part of national strategies to confront those threats. He, also, argued that common cyber interests, e. g., defending critical infrastructure and other national security concerns, have become the pillar of collateral cooperation between the European Union and other international partners regardless of the diversity of individual states' national interests (Reiterer, 2022). Therefore, the tight nexus of cyber diplomacy and interests' concept is indisputable.

¹ US Government Accountability Office. (2024, January). Cyber Diplomacy. State's Efforts Aim to Support U.S. Interests and Elevate Priorities: Report to Congressional Addressees. <https://clck.ru/3A7Y99>

2. The Theory of Protected Legal Interests

2.1. Main provisions of the theory of legitimate interests

Originated by German criminal literature, the theory of legal interests – Rechtsgutstheorie – introduces a detailed analytical description of human interests that should be protected by legal rules in the whole legal system around the globe (Atadjanov, 2019), regardless of national backgrounds. Traditionally, the Rechtsgutstheorie applies to any interest or value endorsed by national legislation. Consequently, legal interests constitute the threshold to criminalize violations of their protected status. Thus, an act affecting this status should be reviewed in the light of the Rechtsgutstheorie to determine what response should be taken to maintain the integrity of legal interests (Atadjanov, 2019; Tianyang, 2024), which grants legislators and literature with a functional normative application of the Rechtsgutstheorie. Therefore, Atadjanov (2019) justified the invention of the Rechtsgutstheorie in German criminal literature by the doctrine that considers the crime a violation of subjective rights, not just legal rules. Accordingly, Ambos (2015) argued earlier that the Rechtsgutstheorie has come to the legal scholarship to cure the deficiencies of the rights theory by enabling the criminalization of violations to other legal interests that are not considered rights in the traditional meaning of this concept. Thus, he claimed that the concept of legal interests means the necessary conditions and objectives for the free development of individuals, the realization of their fundamental rights, and the proper functioning of state institutions required to achieve these objectives. He, also, advocated that the normative perspective of the Rechtsgutstheorie contributes to materializing other legal principles such as the harm principle by solidifying the reasons for the criminalization process and establishing the required criteria of legal concepts. Furthermore, the Rechtsgutstheorie adaptability to be combined with other legal principles provides a flexible formula that contributes to overcoming legal vagueness and promotes the rules of law (Ambos, 2015).

Lanz (2023) discussed that understanding the term «protected legal interest» has two categories: descriptively or normatively. Descriptively, it refers to legal interests safeguarded by existing criminal laws. Normatively, it signifies legal interests that, according to certain criminal policy viewpoints, should be protected by criminal law. *Alio modo*, Tianyang (2024) concluded that the principle of protected legal interests is thoroughly embedded in criminal legislation. As a crucial legal instrument for upholding social order and safeguarding citizens' rights, this principle is integral to the legislative process. By clearly defining criminal acts, establishing appropriate punishments, and adapting to social changes, criminal legislation ensures the effective implementation of this principle. This approach not only respects individual rights but also underscores the role of criminal law in maintaining social order.

Atadjanov (2019) argued that the German understanding of the Rechtsgutstheorie proves inclusive and comprehensive that it could be stretched as a normative to include other categories of interests, even those exceeding the predictions of legal scholars and professionals. Protected legal interests are determinants guiding policymakers and legislators to the approach that safeguards national interests. Thus, novel concepts and terms may be included under the Rechtsgutstheorie because they achieve advantages for a certain state and are profiled, hence, fundamental values and interests. This manifests the direct consequence of the Rechtsgutstheorie normative aspect according to Atadjanov.

Notwithstanding, Wilenmann (2019) refuted this theory and criticized the scholarly parochialism and chauvinism expressed by German law scholars as he profiled this theory as an attempt to enforcably influence global criminal law scholarships while tending to be insular and self-referential. They position the Rechtsgutstheorie as a model for criminal law scholarship internationally, often overlooking perspectives from other legal traditions. Essentially, this criticism highlights the need for a more global and inclusive approach when discussing legal theories. Atadjanov (2019), despite being prominent in introducing the Rechtsgutstheorie in English scholarships, stipulated a normative justification of this theory to be practically useful in legal practice although the Rechtsgutstheorie provides a conceptual framework for understanding legal interests. His review emphasized that merely defining legal interests (Rechtsgüter) is insufficient; finding a justification for providing legal protection for certain interests is obligatory because, without this normative underpinning, the theory remains theoretical rather than actionable. Therefore, striking the balance between normative and practical aspects of the Rechtsgutstheorie proves indispensable to maintain the functionality of this German contribution to the legal theory.

2.2. Contribution to Legal Systems

The Rechtsgutstheorie serves as an instrument to expand official legal responses to criminal, and non-criminal, incidents to ensure the integrity of the protected interests by legal rules, which is a requirement of peaceful cohabitation within a society. Furthermore, Tianyang (2024) argued that the theory of human rights protection is a crucial foundation for the principle of safeguarding legal interests. Human rights, encompassing basic dignity, represent a core value that must not be overlooked in any legal system. As a significant mechanism for limiting citizens' rights, criminal legislation must adhere to the principle of human rights protection to ensure that citizens' legitimate rights and interests are not violated while addressing criminal activities (Lanz, 2023; Tianyang, 2024). Put simply, by adhering to the principle of protecting legal interests, it could be ensured that criminal law punishes crimes without infringing on the rights and interests of innocent individuals, thereby achieving justice and fairness. It should be noted that the mentioned legal interests represent the interests that criminal law seeks to protect. These can be tangible (like life, health, or property) or intangible (such as

personal dignity, privacy, or freedom), which manifest the core of the Rechtsgutstheorie. This role represents the normative aspect of the Rechtsgutstheorie by transcending the mere description of the status quo to advise about the appropriate treatment. Additionally, the Rechtsgutstheorie offers a constitutional guarantee to promote the legitimacy of judicial proceedings by maintaining the rights and interests of the litigation parties (Olha, 2024). Thus, it becomes impossible to deprive any citizen of an interest or a right without an obvious legal justification. It introduces a set of normatively defined and organizationally formalized methods and means that ensure the actual realization of the rights, freedoms, and responsibilities of individuals and citizens (Olha, 2024). Moreover, the Rechtsgutstheorie represents a reflection of the society's legal consciousness and justice awareness among its members, which enhances the trustworthiness and impartiality of the legal protection offered by the existing procedural legislation.

The Rechtsgutstheorie functional application permitted states, regardless of national regime ideology (Atadjanov, 2019), to draft unique schemes of legal interests that should be protected by operational state mechanisms such as legislation, diplomacy, and even military force. As a result, skeptics criticized Rechtsgutstheorie for lacking the minimum impartiality required for legal theories because certain regimes exploited its norms to justify their racist policies contrary to the natural common good sought by law. However, critiques did not frustrate the solid legal establishment of the Rechtsgutstheorie as Atadjanov (2019) advocated its contribution to developing the scope of criminal law and protecting essential legal interests. As the fundamental pillar of criminal legislation, the primary objective of protecting legal interests is to ensure that the legitimate rights and interests of every citizen are fully respected and safeguarded during the formulation and implementation of criminal law inter alia other statutes (Tianyang, 2024). Moreover, the Rechtsgutstheorie proves effective as a standard of the constitutionality of criminal law provisions when contested before the German Constitutional Court since it introduced a solid and disciplined normative to establish the Court's judgments (Ambos, 2015).

Judges have contributed largely to solidifying the Rechtsgutstheorie since the judicial interpretation of criminal law provisions elucidates the meaning and scope of the principle of legal interest protection (Tianyang, 2024). In practice, judges rely on these interpretations to address legal interest protection issues in specific cases, ensuring the principle is upheld. Judicial interpretations integrate social realities and judicial needs, providing in-depth analysis and guidance. This aids judges in correctly applying the principle and offers citizens clear legal guidance to safeguard their rights. The criminal code, amendments, and judicial interpretations all embody this principle in legislation and practice. Hence, ongoing judicial interpretation provides an effective application of the Rechtsgutstheorie to maintain social justice and stability regarding the implementation of legal rules.

3. State's Cyber Interest as a Protected Legal Interest

3.1. The Rechtsgutstheorie Validity in Cyberspace

As previously indicated, the German origin of the Rechtsgutstheorie profiles it as domestic; it keeps with determining criminal conducts that constitute crimes within the society. Atadjanov's (2019) elaboration proves that German scholars never intended to employ this theory in international legal practice. Thus, the attempt to utilize it to maintain a state's cyber interests offers an expansion of the application of the Rechtsgutstheorie from domestic criminal law to non-criminal international law and, also, to politics and diplomacy.

Using a domestic criminal law theory to justify the state's policies to protect national interests in cyberspace is admissible because international legal practice discloses the adoption of the general principles of law, whether it was criminal law or international law, by international courts (Atadjanov, 2019) disregarding their domestic origins. The continuing adoption of general legal theories qualifies them to be solid legal status applicable to several legal questions. Furthermore, the immediate utilization of criminal law theories, inter alia the Rechtsgutstheorie, eradicates the legislative vacuum when dealing with novel legal issues as a part of the natural contribution of criminal law doctrine. Atadjanov (2019) assured that the practice of international criminal tribunals discloses their resorting to basic criminal law principles to close any gaps that hinder deciding litigation. Thus, the domestic German Rechtsgutstheorie is qualified to be employed to govern states' practices regarding national interests in cyberspace, which constitutes an international virtual environment, once the domestic origin adopts the same legal principles admitted in international law. In the same vein, the International Criminal Court authorized establishing international judgments on domestic legal principles once the former accorded with the universal objectives of the Court.² The determinant in this case lies in the objective congruence in values between the domestic principle and international law.

Another foundation lies in the nature of criminal law itself; the Rechtsgutstheorie derives its applicability in cyberspace from the expansive nature of criminal law; criminal legal principles are of administrative nature that proves ongoing expansion in the field of human interactions governance (Bidasolo, 2023). He argued that legal practice has revealed that the accurate and innovative interpretation of criminal law principles by law practitioners expands their applicability to other spheres of human behavior apart from criminal offenses. De la Cuerda Martín (2023) considered that expanding criminal law principles is a direct consequence of the dominant sphere of globalization in cyberspace which implied re-thinking how to confront novel risk-generating activities through soft law instruments. She claimed that supranational economic integration,

² ICC, Prosecutor v. Mathieu Ngudjolo Chui, 18 December 2012, ICC-01/04-02/12.

market evolution, cybercrime, and transnational organized crime are tangible social risks of globalization. Without these factors, there would have been less necessity to criminalize new offenses or reform existing ones. Thus, the application of a criminal law theory in other human behavior aspects stipulates following a harmonized approach that is restricted to reason, necessity requirements, and achieving the common purpose of domestic needs satisfaction. As a state can employ a variety of toolkits to protect national interests (Thomas, 2023), a criminal law theory, i.e., the Rechtsgutstheorie, should be prioritized over those methods because it legitimizes measures taken by a state to protect cyber interests.

Since states' policies in cyberspace move around their interests, the Rechtsgutstheorie would enhance the stability of world order by organizing when and how should a state intervene in the digital realm to protect a national interest. In this objective, the Rechtsgutstheorie meets with the literal interpretation of the interest concept as explained by Onditi (2023). The limiting role of this theory in criminal law supports the accomplishment of the objective assigned, especially considering the absence of a consensual mechanism in international law that governs this question (Abdelkarim, 2024). Indeed, the differentiation among states' national perspectives of the concept of interest triggers legal frictions concerning the interpretation of protected legal interests. Reaching a unified, or at least consensual, understanding of the normative of the Rechtsgutstheorie among scholars decreases decisively the potentialities of these frictions, considering the powerful capabilities of cyberspace technologies and the inequality in national cyber abilities among states. This contribution represents the natural cosmopolitan role of criminal law theories.

3.2. The Rechtsgutstheorie Implications on the State's Cyber Interests Concept

As a political conception, interests contribute to drawing the features and impacts of states' national strategies and policies on the international theatre (Metea, 2020; Wang, 2022) as they secure the satisfaction of national needs. This classification implies that to be a legal normative interests must satisfy a certain criterion consisting of legal fundamentals that elevate the interests' concept to be protected legal interests. Since the Rechtsgutstheorie presents a set of legal requirements to apply to a given notion, interests should satisfy the Rechtsgutstheorie requirements and enjoy the ultimate legal protection offered by this theory.

From the previous explanation of interest's concepts, along with the contemporary understanding of the Rechtsgutstheorie, the concept of protected legal interest consists of several concretes which are:

- 1) objective: to satisfy a need for a certain group,
- 2) necessity: an indispensable requirement to achieve that purpose,
- 3) effect: to achieve a desired modification for this group.

Therefore, national interests in cyberspace should satisfy these pillars to be entailed under the Rechtsgutstheorie as protected legal interests, invoking, thus, the state's authorities to protect them in this virtual environment. In cyberspace, an interest should respond to a specific need of the state's citizenry that enhances their life standard, should be indispensable to achieve continuing development of the inner society, and its impacts on the citizenry must be positive and realistic. Upon meeting these requirements, national interests in cyberspace prove qualified to be protected legal interests, which maintenance achieves the common objectives of criminal law theories concerning ensuring peaceful cohabitation and security in cyberspace. This approach simulates Atadjanov's logic (2019) to consider humanness, which is a philosophical social conception, a protected legal interest under the Rechtsgutstheorie since humanness satisfies certain requirements he mentioned.

The governance of states' policies in cyberspace to ensure security and peaceful cohabitation constitutes the necessary status implying the subordination of national policies therein to a firm law theory, such as the Rechtsgutstheorie. Without seeking to achieve this goal, the search for a legal foundation for national policies defending states' interests in cyberspace becomes meaningless; this goal represents the logical justification for utilizing a domestic criminal law theory in the field of states' policies in cyberspace, considering the universal scholarly consensus on the interest's concept. It is admitted that the absence of rules that govern states' cyber policies threatens universal peace and security because unilateral policies lead to inter-state conflicts; a negative consequence that should be evaded. Moreover, Atadjanov (2019) claimed that an obvious collateral objective is crucial to applying the Rechtsgutstheorie because a pure description of a legal interest proves insufficient to apply this theory. The functional aspect is the dominant factor in this regard.

Furthermore, the flexibility of the state's cyber interests concept, which is a special feature that suits the pure technical nature of cyberspace according to Abdelkarim (2024), permits operating the mechanism as mentioned above to profile them as protected legal interest under the Rechtsgutstheorie because flexibility, in this context, supports the application of legal logic tools, e.g., induction, analogy, analyzing, and concluding, to figure out the applicability of legal theories on political conceptions.

To conclude, the Rechtsgutstheorie influences the contemporary understanding of state cyber interests because it promotes national abilities to identify cyber interests that are worth legal protection such as Privacy, data integrity, sovereignty, and economic stability, and draft policies to safeguard their integrity. Its application advocates the governability of cyberspace; it is not a lawless vacuum but a sphere where legal theories prove functional.

Conclusion

The research clarifies that the state's interest concept has technically evolved to become realistic in cyberspace, where it proves fundamental to draft national policies that aim at safeguarding national interests. The reality of this conception has transcended traditional political understanding to construct a solid legal establishment. Since unilateral actions might lead to conflicts, the research attempts to develop a legal theorization to analyze and profile the concept of a state's cyber interest. The research endeavor to apply a criminal law theory on protected legal interests to the conception of a state's cyber interest proves effective because of the powerful applicability of criminal law principles which enhances its adoption in several legal questions. Accordingly, the Rechtsgutstheorie is qualified to accomplish the assigned contribution to profiling the state's cyber interest concept as protected legal interests. Therefore, a comprehensive legal umbrella extends to defend national interests in cyberspace. This constitutes the core of the state's interest concept legal aspect.

In summary, the Rechtsgutstheorie provides a lens through which the concept of the state's cyber interests could be analyzed from a legal perspective. As digital landscapes evolve, legal theory adapts, and the quest for balance continues to enhance the rule of law in cyberspace.

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Правовые аспекты концепции киберинтересов государств через призму теории законных интересов

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Ключевые слова

государственные интересы, кибердипломатия, киберинтересы, киберпространство, международная судебная практика, национальные интересы, теория законных интересов, права человека, уголовное право, цифровые технологии

Аннотация

Цель: показать эволюцию концепции государственных интересов и ее применение в киберпространстве, где она оказывается основополагающей для разработки государственной политики, направленной на защиту национальных интересов.

Методы: исследование базируется на пересечении теории права и концепции киберинтересов государства через призму теории законных интересов (Rechtsgutstheorie), изначально разработанной в рамках уголовно-правовой науки, но имеющей перспективы для изучения концепции государственных интересов в киберпространстве. Применение теории законных интересов позволило изучить понятие киберинтересов государства и определить его правовую классификацию, а также приложения к концепции государственных интересов в киберпространстве. В частности, теория законных интересов в настоящем исследовании используется для изучения правовых перспектив концепции государственных интересов в киберпространстве как интересов, подлежащих правовой защите.

Результаты: определено, что в динамичном ландшафте киберпространства существуют многогранные интересы государств, связанные с национальной безопасностью, экономическим процветанием, суверенитетом и дипломатией, для обеспечения защиты которых государства инициируют стратегии, которые порождают разнообразные политико-правовые последствия в международных отношениях. Этим фактом определяется важность изучения концепции государственных интересов с юридической точки зрения, равно как и их правового статуса и последствий. Проведены параллели между концепцией охраняемых правовых интересов в рамках теории законных интересов и киберинтересами, которые государства стремятся защитить. Рассмотрена применимость требования этой теории о балансе конкурирующих интересов к действиям государства в киберпространстве.

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Выявлены препятствия применения теории законных интересов к киберпространству, включая трудности атрибуции, пороговые значения ущерба и необходимость глобального консенсуса. Показана эволюция концепции государственных интересов, что обуславливает возможность ее применения в киберпространстве, где она служит целям разработки государственной политики, направленной на защиту национальных интересов.

Научная новизна: выражается в представленном в статье преломлении теории законных интересов к формированию правовой концепции киберинтересов государства, что служит достаточным обоснованием защиты конкретных киберинтересов.

Практическая значимость: основные выводы, изложенные в статье, могут быть использованы для выявления киберпространственных интересов, подлежащих правовой защите (таких как конфиденциальность, целостность данных, суверенитет и экономическая стабильность), совершенствования правовых механизмов защиты национальных интересов в киберпространстве, обеспечения единообразия релевантной международной судебной практики, повышения эффективности и качества управления политикой государств в киберпространстве с целью обеспечения безопасности и мирного сосуществования.

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