



The Social Dimension of Global Constitutionalism

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Abstract

The paper argues that the traditional trinity of global constitutionalism can and should be extended to cover a fourth, a social limb. Just as national constitutionalism has embraced the social question, global constitutionalism needs to do the same in times of globalisation fatigue. To this end, global constitutionalism can build on and push further important trends in our post-2015 international legal order, notably the emerging **cross-border social responsibility for individuals**. The study of inter- and transnational social law standards and entitlements through the lens of global constitutionalism facilitates cross-fertilisation between social and liberal constitutional principles and works against playing those dimensions out against each other in a false competition.

By absorbing the social question, global constitutionalism can mitigate its neo-liberal tilt, and is rescued from being reduced to a project to deepen the power of capital and to extend a market civilisation in which the transnational investor is the principal political subject.

Outline

- I. Statement of the problem: Fallouts of hyper-globalisation
- II. Five trends in the direction of a “more social” international law
 1. The international law against poverty
 2. The international law against inequality
 3. The extension of international social rights
 - a) Extension *ratione materiae*: Radiation into all international law
 - b) Extension *ratione loci*: Extraterritorial application
 - c) Extension *ratione personae*, notably to corporations
 4. The enforcement of social rights
 5. Social impact assessment and due diligence, notably before the conclusion of trade and investment agreements

Interim conclusion: The emerging cross-border social responsibility for human beings

- III. The global social question from a constitutionalist perspective
 1. Socialising compensatory constitutionalism
 2. Facilitating interdisciplinary debate
 3. Overcoming regime fragmentation
 4. Acknowledging the social principle as a shared constitutional heritage
 5. Mitigating Eurocentrism
 6. Mitigating a measure-mentality
 7. Feedback loops between the social condition and constitutional institutions
 - a) The rule of law – development nexus
 - b) The peace – social justice nexus
- IV. Conclusion: Implications for corporate governance

Reference

Anne Peters, Global Constitutionalism: The Social Dimension. MPIL Research Paper Series, 2017-25 (<https://papers.ssrn.com/sol3/papers.cfm?abstractid=3083578>)