



“THE CONSTITUTION OUTSIDE THE STATE: REFLECTIONS ON THE USE OF CONSTITUTIONAL LAW OUTSIDE STATE SPHERES”

FRENCH ROUND TABLE PLACED UNDER THE PATRONAGE OF THE INTERNATIONAL ASSOCIATION OF CONSTITUTIONAL LAW WITH THE ASSISTANCE OF THE FRENCH ASSOCIATION OF CONSTITUTIONAL LAW

PROJECT LEADERS

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PROJECT DURATION

2 days (1.5) (Wednesday June 19 and Thursday June 20, 2024) Project carried out by the University of Paris I Panthéon-Sorbonne in partnership with the Jean Moulin University - Lyon III, public law team and the constitutional law center of the faculty of law (Professor Philippe Blachère)

PROJECT LOCATION

Jean Moulin Lyon III University, MILC Lecture Room, 35, rue Raulin, 69007 LYON

PROJECT DESCRIPTION

The constitution has long been thought of and still remains largely thought of as the text organizing the State, its powers, their skills and their mutual relations and with national citizens. This classic “state-national” conception of the constitution is today supplemented by a double movement going beyond this strict framework.

Firstly, a “post-national” movement is taking shape using the concept of constitution in order to capture political spaces and institutions outside the Nation-State which use a similar form of organization. This is the case for European or South American spaces for example, international

organizations or even the global space, which all seek to represent themselves in a “constitutional mirror”. We must understand the reasons but also the issues and also the dangers.

Secondly, another post-state movement emerges leading to the diffusion of the principles of constitutionalism – separation of powers, guarantee of rights, settlement of disputes – in businesses and the various institutions of society. Why do private individuals use the mechanisms and institutions of constitutional law? Is this movement, which particularly affects multinational companies (such as GAFAM) or transnational civil society organizations (NGOs), indicative of a transformation of the role of the State but also of the borrowing of state organization by legal entities under private law? What does this borrowing from state constitutionalism reveal? Does it reveal a form of competition with

For each of these movements, it is appropriate to draw inspiration from examples allowing us to discuss the relevance, the meaning, the scope of the concept of constitution which would no longer only capture the State but Society in its entirety. With a session on using the concept of constitution to capture post national spaces and another session to capture social spaces.

A third session will then be devoted to a reflection on the transition from state constitutionalism to societal constitutionalism.

Program

Date: June 19 & 20, 2024

Duration: ½ day (meeting of AIDC bodies) 1 day and a half
Location: Lyon - Faculty of Law of the University of Lyon III

Organising institutions:

University of Paris I Panthéon-Sorbonne
Jean-Moulin Lyon III University
International and French constitutional law associations

Wednesday June 19, 2024

10.30 AM - Meeting of the Executive Committee of the International Association of Constitutional Law (Faculty of Law of Lyon III - exact location to be specified)

Wednesday June 19, 2024 (afternoon)

Opening session

2.00 PM

Helle KRUNKE, *President of the International Association of Constitutional Law, University of Copenhagen*

Julien BONNET, *President of the French Association of Constitutional Law, Professor at the University of Montpellier*

Bertrand MATHIEU, *professor emeritus of Paris 1 University, president emeritus of the AFDC, former vice-president of the AIDC*

Philippe BLACHER, *Professor at the University of Lyon III, member of the AFDC Board of Directors*

Xavier PHILIPPE, *Professor at the University of Paris I Panthéon-Sorbonne, member of the executive committee of the International Association of Constitutional Law*

2:30 p.m.

Presentation of the general theme of the Round-Table

Dominique ROUSSEAU, *Professor emeritus of the University of Paris 1 Panthéon-Sorbonne*

1st Session (3:00 p.m. – 6:00 p.m.)

The diffusion of constitutional principles in post national spaces

Chair: Anna JONSSON CORNELL University of Uppsala, Secretary General of the AIDC

Presentation: this first session will be intended to explore the processes constituting supranational organizations having made their founding treaties into constitutive acts intended for the functioning of their institutions and the derived rules that they can issue with regard to their members or sometimes even to people. The idea will consist of starting from the most integrated organizations (European Union, MERCOSUR, etc.) to then examine the situation of international organizations with a universal vocation - among which we can also sometimes detect a movement towards constitutionalisation - before questioning the conditions necessary for a world constitution. This session would thus be part of a perspective going from the most certain borrowing of constitutionalism to questioning the capacities of diffusion of constitutionalism to spheres where its use remains under construction or even virtual.

The goal of this session will be to question the possible disconnect between state constitutionalism and the use of constituent and constitutional mechanisms outside the state. The underlying idea would be based on a possible questioning of the link between “state sovereignty” and “constitution” of which the latter is often presented as the emblem.

1. **“Towards a Global Constitution, perceived from a perspective of the Southern Hemisphere”**, César LANDA ARROYO *Professor, Pontificia Universidad Católica del Perú; Former President, Constitutional Court of Peru, member of the AIDC Executive Committee*
2. **“European Convention on Human Rights and National Constitutions”**, George KATROUGALOS *Professor, member of the AIDC executive committee*
3. **“The European constituent process”** Anne LEVADE, *Professor at the University of Paris I Panthéon-Sorbonne, President Emeritus of the AFDC*
4. **“The conditions for a world constitution”**, Guillaume TUSSEAU, *Professor at the Paris Institute of Political Studies*

Thursday June 20, 2024 (morning and afternoon)

2nd session (Morning 9.00 AM 12.30 PM)

The dissemination of constitutional principles in businesses and civil society organizations

Chair: Selin ESEN, First Vice President LACL, Professor Ankara University

Presentation: this second session will go a little further in questioning the link between the State and the constitution since it will question the use of constitutionalism within non-state private entities. The idea will consist of questioning the use of the methods and means of constitutional law to found and manage, on the one hand, the governance of companies – especially the most powerful with an international dimension – but also, on the other hand, corporate organizations. civil society which, through their activities, tends to reproduce the management and administration methods of the State (often called governance). In the first register of companies, we find entities which sometimes have greater power than those of States (and which sometimes deal with States, or even subcontract certain of their activities), such as GAFAM (Google, Amazon, Facebook ...). In the register of civil society organizations, we find organizations with a societal or even charitable vocation whose mode of operation requires support by structured institutions developing a strategy or policy (OXFAM, Amnesty International, HRW). In the case of these latter organizations, the hypotheses in which these organizations pursue illegal activities and goals will also be integrated, such as non-state armed groups (Taliban in Afghanistan, DAECH in Syria, for example) which develop supervision techniques. of their activities which strongly resemble those of constitutional law. While condemning with the greatest firmness the goals, activities and methods of these organizations, the fact remains that they succeed in establishing themselves using the methods of organization of the State.

1. ***“Can a private company be an object of study for constitutional law?”*** Pierre-Yves GAHDOUN, *Professor at the University of Montpellier (France)*
2. ***“Governance and fundamental rights in the digital world: GAFAM and the constitutionalisation of digital society”*** Pauline TÜRK, *President of the AFDC scientific council, Professor at the University of Nice-Côte d’Azur and Karine FAVRO, Professor at the University of Haute Alsace (France)*
3. ***“Dissident constitutionalism” (“Discuss Your Own Constitution!”: Soviet Dissident Writings on the 1977 USSR Constitution and Their Impact on the 1993 Russian Constitution)*** (communication in English) Kirill KOROTEV, *Legal Director, Human Rights Center “Memorial” (Moscow)*
4. ***“Constitutional governance of enterprises and enterprises under constitutional governance: conflicts and harmonization of the two orders of governance of the state and enterprises in China”*** WANG Wei, *Professor, China University of Political Science and Law, Faculty of Law, Beijing (China)*
5. ***“Simple national social rights? European basic income, a step forward towards constitutionalist Europe”*** (communication in English) Marek Piotr Kaczmarczyk, *University of Warsaw (Poland)*
6. ***“The organization of the guarantee of fundamental rights in businesses and civil society organizations in Korea”*** JaeHwang JEONG *Professor Emeritus of Law at Sungkyunkwan University, Seoul (Korea) President of the Organizing Committee of the 10th World Congress of Constitutional Law, former Vice-President of AIDC (International Association of Constitutional Law), member of the Executive Committee of AIDC, President of the Korean Association of the International Association of Constitutional Law.*

3rd session (2:00 PM - 5:30 PM)

From state constitutionalism to societal constitutionalism

Chair: Mathilde HEITZMANN-PATIN, Professor Le Mans University, Secretary General of the AFDC

Presentation: this third and final session will examine in a more conceptual way the issues of transformations generated by constitutional law as soon as it is used outside the State. Does the idea of transposing state constitutionalism to societal constitutionalism make sense? If conclusive evidence demonstrates that constitutional law reveals a certain form of porosity with regard to non-state spheres which adopt its means and methods, does this mean that its functions are identical? Is this not an “apparent constitutionalism” whose limits can quickly appear when we examine the conditions of implementation of this constitutionalism “outside the State”. What would be the conditions for considering a relevant comparison?

1. **“Societal Constitutionalism as Conflict, Industrial Democracy as Representation of Constitutional Collisions beyond the State”** (*communication in English*) **Günter TEUBNER**, Professor Emeritus at the Goethe University of Frankfurt (Germany) & **Angelo GOLIA** Assistant Professor, University of Trento (Italy)
2. **“The concept of societal constitutionalism”** **Jérôme COUILLEROT**, Professor at Jean Moulin Lyon III University (France)
3. **“Constitutional transitions outside the State”** **Carla HUERTA**, Professor at the National University of Mexico (UNAM), (Mexico).
4. **“The use of constitutional law by non-state actors (Thinking the Constitution Outside of The State: On the Use of Constitutional Law by Non-State Actors)”** (*communication in English*) **Davide ZEKKA**, Post-Doctoral Research Fellow, Department of Italian and Supranational Public Law, University of Milan (Italy)
5. **“What developments for European constitutionalism?”** **Gaëlle MARTY**, Professor at Jean Moulin Lyon 3 University

Conclusions

“Does the transposition of constitutionalism outside the State seem possible and relevant?”

Xavier PHILIPPE, Professor at the University of Paris I Panthéon-Sorbonne, Member of the AIDC executive committee