

# Constitutionalism in the Global Realm

A sociological approach

Poul F. Kjaer

# Contents

<i>Acknowledgements</i>	viii
<b>1 Introduction: the metamorphosis of constitutionalism</b>	<b>1</b>
1.1 <i>Changing frames</i>	1
1.2 <i>The two discourses of transnational ordering</i>	3
1.3 <i>The new constitutional agenda</i>	5
1.4 <i>An alternative approach</i>	7
 <b>PART I</b>	
<b>Structural transformations</b>	<b>15</b>
 <b>2 The implosion of the Eurocentric world</b>	<b>17</b>
2.1 <i>Introduction</i>	17
2.2 <i>The long twentieth century</i>	17
2.3 <i>The transformation of 'deeper structures'</i>	20
2.4 <i>Limited statehood</i>	23
2.5 <i>The co-evolution of statehood and transnational ordering</i>	31
2.6 <i>Conclusion</i>	35
 <b>3 The multiplicity of normative orders in world society</b>	<b>41</b>
3.1 <i>Introduction</i>	41
3.2 <i>The concept of world society</i>	41
3.3 <i>The re-configuration of cognitive and normative expectations</i>	43
3.4 <i>Normative orders as basic units of study</i>	45
3.5 <i>The entangled vertical and horizontal logics of world society</i>	50
3.6 <i>Multiple lines of conflict</i>	53
3.7 <i>Establishing compatibility</i>	55
3.8 <i>Conclusion</i>	58

PART II

Re-configurations of law and the political 63

4 The law within and in between normative orders 65

4.1 *Introduction* 65

4.2 *Hybrid law* 65

4.3 *Fragmented law* 69

4.4 *Heterarchical law* 70

4.5 *Intra- and inter-contextual law* 72

4.6 *The normative and cognitive dimensions of law* 76

4.7 *Conclusion* 78

5 The political within and in between normative orders 83

5.1 *Introduction* 83

5.2 *Primary and secondary forms of the political* 84

5.3 *'Nations' and stakeholders as forms* 87

5.4 *The public sphere and transparency* 90

5.5 *Representation and self-representation* 91

5.6 *The status of the political in the transnational space* 93

5.7 *The transnational form of the functional synthesis* 94

5.8 *Conclusion* 97

PART III

Constitutional stabilisation 101

6 The breakdown of constitutional ordering through globalisation-induced crises 103

6.1 *Introduction* 103

6.2 *From static to dynamic constitutions* 104

6.3 *The Janus-face of modernity* 105

6.4 *Forms of societal crises* 107

6.5 *The constitutional conglomerates of national configurations* 109

6.6 *Constitutional breakdowns* 113

6.7 *Conclusion* 118

7 The transmutation of constitutional ordering 122

7.1 *Introduction* 122

7.2 *The emergence and mutation of the European economic constitution* 122

7.3 *Constitutional ordering in the global realm* 128

7.4 *Counter-movements through new sectorial constitutions: the example of fair trade* 129

7.5 *Conclusion* 132

8	Re-calibrating the constitutional concept	136
8.1	<i>Introduction</i>	136
8.2	<i>The organisational society</i>	137
8.3	<i>Internal condensation through constitutions</i>	140
8.4	<i>External compatibility through constitutionalisation</i>	143
8.5	<i>Approaching the future through constitutionalism</i>	146
8.6	<i>Conclusion</i>	148
9	Conclusion	152
	<i>Bibliography</i>	157
	<i>Index</i>	172