

CONSTITUTIONALISM IN GLOBAL CONSTITUTIONALISATION

AOIFE O'DONOGHUE



CAMBRIDGE
UNIVERSITY PRESS

CONTENTS

Acknowledgements page ix

1	Introduction	1
2	Norms of constitutionalism	14
2.1	Constitutionalism	15
2.2	The norms of constitutionalism: the rule of law, divisions of power and democratic legitimacy	24
2.3	The relationship between domestic and global constitutionalism	44
2.4	Conclusion	51
3	Who benefits? Constituent and constituted power	54
3.1	Constituent and constituted power holders and their relationship with constitutional governance	56
3.2	Community	59
3.3	Constituency	77
3.4	Conclusion: community or constituency?	84
4	The global constitutionalisation debate in context	87
4.1	Context of debate	90
4.2	What to do about global governance?	106
4.3	Historical antecedents of global constitutionalisation	108
4.4	Verdross and New Haven within constitutionalisation	132
4.5	Conclusion	133
5	The structure of global constitutionalisation	135
5.1	Theories of global constitutionalisation	140
5.2	Coherence, competence, consistency and hierarchy?	151
6	The development of a constitutional approach	155
6.1	The rule of law and constitutionalisation theories	156
6.2	Divisions of power	171

6.3	Democratic legitimacy	183
6.4	Constitutional norms in global constitutionalisation	197
7	Whom does global constitutionalism address?	200
7.1	Community	202
7.2	International constituency	225
7.3	The possible use of constituency in international constitutionalism	236
7.4	Conclusion: constituency or community?	241
8	Constitutionalism in global constitutionalisation theories	243
	<i>Bibliography</i>	250
	<i>Index</i>	266