



THE GREAT CRISES OF CONSTITUTIONALISM IN THE FACE OF GLOBALIZATION

di Francisco Balaguer Callejón*

ABSTRACT

Even if the gradual incorporation of constitutionalism on the international and global level involves partial civilizing advances, the truth is that the 21st century is causing an essential transformation in the historical conditions that led to its formation and development. Globalization has generated a context characterized by acceleration and permanent transformation, both in the economic and technological fields. The changes that have taken place in the almost two decades of the 21st century have substantially altered the world that we had known until the end of the 20th century. New agents of global power, both public and private, which are not linked to the values that inspired constitutionalism, have emerged. In the case of the public powers, because they are authoritarian states which lack of democratic structures. In the private sector because they have linked their activity to the exclusive logic of economic benefit, distorting the democratic values that had ruled until recently the public sphere.

The increasing permeability of the State to the global agents that act in the financial and communicative plane, has determined the two great crises of the constitutionalism in front of the globalization in this 21st century. On the one hand, the financial crisis, which has led to an outsourcing of a state power fully subject to economic conditions that have been dictated from outside. On the occasion of the crisis, an attempt has been made to implement an "economic interpretation of the Constitution" that has weakened the inspiring values of constitutionalism. On the other hand, the democratic crisis, which has manifested itself from the Brexit and the US presidential elections, with the impact that the large Internet service provider agencies have had on the electoral processes, through the technological design of adapted mass propaganda to social networks. The Nation State is currently defenseless against these global agents (which have connections among themselves) of financial speculation in the markets and public space manipulation. The constitutionalism of our time can only aspire to a global or, at least, supranational

* Full Professor of Constitutional Law at Universidad de Granada

regulation, to be effective.

Beyond the visible effects of the intervention of these new global powers, some structural problems are being generated that may affect the very essence of constitutionalism in its last phase of development until now, that represented by normative constitutions and pluralist democracy. At the economic level, the foundations of the social and democratic State of Law are being undermined and their cultural roots are deteriorating. On the communicative level, despite the participative potential of social networks, there is a growing isolation and encapsulation of citizenship in groups and a change in behavior patterns in political parties and in the media, which make more and more difficult reflective communicative processes, oriented to the formation of consensus, which were typical of pluralist democracy. Social networks are extraordinarily enhancing the segmentation and progressive disintegration of the public space, since it is economically productive to the large Internet platforms. The generation of political instability and virtual social conflicts through networks increases their advertising revenues. The economist logic that has been installed in the great global agents is provoking a civilizing setback and an existential crisis of the constitutionalism that we have known up to now.