



The Peerian Journal

Open Access | Peer Reviewed

Volume 13, December, 2022.

Website: www.peerianjournal.com

ISSN (E): 2788-0303

Email: editor@peerianjournal.com

Globalization of Law and Evolution of Constitutional Values

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Abstract: In this article, the author considers the development and consolidation of constitutional values, which are the result of the progressive development of society as common values for all citizens of the state, clothed in a constitutional legal form, and represent fundamental, generalized, strategic priorities (goals, principles) of development society and the state.

In addition, the problems of foreign constitutional comparative studies are analyzed in the context of the development of "constitutional values".

Key words: Constitution, comparative studies, development, evolution, values, priorities, state, law, form, principles of state and law, regulation, priority, international law.

The Basic Law is the “**visiting card**” of any state, reflects the values prevailing in a given society, recognized as such not only by the creators of the constitution, but also by the people of the country, it fixes the so-called. "value system of coordinates". Each state independently determines and constitutionally formalizes a "set" of national constitutional values, thereby defining its constitutional identity.

Constitutional values are the result of the progressive development of society as values common to all citizens of the state, clothed in a constitutional legal form[1], and represent fundamental, generalized, strategic priorities (goals, principles) for the development of society and the state. They also represent certain ideals that society and the state aspire to at a certain stage of historical development[2].

Consequently, these values can change not only from state to state, but also over time within one state - since the provisions of the constitution are always interpreted in accordance with the Spirit and the idea that dominates the given period. Therefore, some frame of reference is needed to confine ourselves to the correct interpretation of constitutional rights and principles[3; 4; 5; 6; 7; 8].

However, today there is a certain, but rather vague framework for what can legitimately be called "constitutional". In modern foreign constitutional comparative studies, "constitutional values" are divided into national, regional and universal (or global). At the same time, not all national values are universally recognized, and today there is no generally accepted list of universal human values.

At the same time, if universally recognized values are extraterritorial in nature, then national



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values apply only to the territory of a separate state and their inclusion in the texts of national constitutions is due to the historical development of society and the state, traditions, culture, mentality of the people living in this territory.

In this sense, many constitutionalists are adherents of the "**living Constitution**" theory, originally developed in American constitutionalism, which argues that the content of the constitution, the values set forth in it, are dynamic and develop under the influence of social and social changes. This development takes place in several directions, in particular: a more extensive interpretation of the values included in the constitution; inclusion of new values in the text of the main law; increase in objects of constitutional regulation[9; 10; 11; 12].

For example, historically, the first constitutions were limited to regulating relations of power, as well as some personal and political human rights, and considered the state to be the main object of constitutional regulation. Modern constitutions regulate the foundations of social relations: the economic, social, political systems of society, its spiritual life, the legal status of a person and a citizen, direct and inverse relationships "man - collective - society - state", which is ultimately used to create and distribute social values on based on the principles of cooperation and competitiveness[2; 13; 14].

This broader approach to the object of constitutional regulation is to a certain extent adopted, in particular, by the new constitutions (basic laws) of **Saudi Arabia** (1992), the **Sultanate of Oman** (1996), the **Republic of South Africa** (2012), India (2016) and to some extent refers to countries where the "old" constitutions are in force (**USA, Norway**). The narrowness of constitutional regulation in them is compensated by the current legislation, which has, in essence, constitutional significance (for example, on political parties). The Constitution in one way or another fixes the foundations of the social and state system. This makes it the basic law, corresponding to the challenges of the time, gives it the elements of a social contract.

In general, constitutions currently reflect a trend towards the creation of a systemic legal document that establishes the legal foundation for the life of a person, collectives (associations), the state and society based on the use of state power on behalf of and for the benefit of society, the people.

In this sense, according to many modern constitutionalists, the legal Constitution is the fundamental law (a set of fundamental laws, and sometimes other acts of constitutional significance):

firstly, having the highest legal force, proceeding from the recognition of the basic universal values and values of a given society, civilization;

secondly, fixing in one volume or another the foundations of the legal status of the individual, economic, social, political systems and the spiritual life of society;

thirdly, regulating the relationship between a person, a collective, the state and society through the application (based on the principles of cooperation and competitiveness of various socio-political forces) of state power used to establish the foundations for the creation and distribution of social benefits in society[15; 2;].

First of all, it is necessary to note the growing worldwide trend of constitutional development, based on such universal human values as recognition of the value of a person, his rights, freedoms and dignity, as well as the fact that rights stem from the inherent dignity of the human person[16;



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17; 18].

Experts link this feature of modern global constitutionalism with the provisions of the Universal Declaration of Human Rights, which states that recognition of the dignity and equal and inalienable rights inherent in all members of the human family is the basis of freedom, justice and peace in the world[19; 20].

At the same time, it is noted that the emphasis on human dignity, which is widespread today, has several sources - religious, moral, legal, etc. It is noted that the rhetoric about human dignity is much more widespread than the understanding of what tasks and restrictions are set for governments by the norms of dignity. They can be used to assert rights to democratic self-government and for a wide variety of negative and positive rights, but for this very reason they can sometimes serve as instruments of radical social change, sometimes as conservative bulwarks against odious reforms[21; 22].

According to foreign constitutionalists, unlike most versions of the values of human dignity, some features of constitutionalism indicate a decrease in fundamental differences between authoritarian and democratic regimes, demonstrate the commitment of states to the rule of law, the stability of institutional structures and responsibility for the unconstitutional behavior of officials, attract foreign investors, limit internal discontent and increase the predictability of their decisions and actions, the stability of legislation.

The analysis of existing legal values shows that, in the XXI century. special attention is also paid to such constitutional values as:

- economic, social, political and ideological pluralism, the formation and support of a competitive environment in all spheres of society, the state, as well as economic and social spheres;
- implementation of the electoral rights of citizens, direct elections of the lower houses of parliaments and other representative bodies, free competition of political parties;
- effective interaction between the branches of government in the performance of state tasks, improving the quality of the system of checks and balances between them, introducing more democratic methods of government;
- increasing the responsibility of public authorities and officials to the people at different levels of government.

Studying foreign constitutions, one can single out several approaches to reflecting “universal values” in their texts[23; 24]:

Firstly, individual constitutions do not mention universal human values (for example, **Indonesia, Canada, Lithuania**).

Secondly, a number of constitutions contain a general formula for the recognition of universal human values, fixing such a norm, as a rule, in the preamble (for example, **Bulgaria, Poland**).

Third, some constitutions enshrine a catalog of these values. Thus, the Albanian Constitution of 1998 defines that “justice, peace, harmony and cooperation between nations” are the highest values of mankind, the Polish Constitution of 1997 points to such universal values as “truth, justice, goodness and beauty”, the Constitution of Bulgaria 1991 consolidates loyalty to universal values - “freedom, peace, humanism, equality, justice and tolerance.”

However, one can state a partial internationalization of values, which may not always be



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universal. The universal values most often include **freedom, equality, humanism, democracy, and justice**. Along with this, individual constitutions, especially those adopted in recent years, enshrine in their texts peace, security, law, social progress, social and economic well-being as the most important constitutional values[25; 26].

Many foreign constitutions, without referring to the generalizing formulations of universal values, expand this list at the expense of other values recognized as national. For example, in the Constitution:

- **Principalities of Andorra** (1993) - freedom, justice, democracy and social progress;
- **Syrian Arab Republic** (2012) - international peace and security, rights and justice;
- **Kingdoms of Bhutan** (2008) mentions - freedom, justice, tranquility, unity, security, happiness and well-being of the people;
- **Fiji** (2013) - security and social and economic well-being.

At the same time, the reasons for the constitutional reforms, the definition of new national values are different and depend on many factors. In particular, according to foreign constitutionalists, one of the fundamental causes of reforms over the past twenty years can be considered a crisis - a crisis of values in society and the state, a crisis of security. The security crisis is characterized by the presence of various social contradictions both within individual states and between them, which carry the risk of conflict situations, changes in the space of the state, etc., and can lead to serious consequences for ensuring the protection of the interests of the individual, society and the state.

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