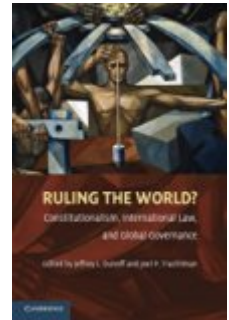


**Jeffrey L. Dunoff, Joel P. Trachtman, eds..** *Ruling the World? Constitutionalism, International Law, and Global Governance*. Cambridge: Cambridge University Press, 2009. xvi + 414 pp. \$38.99, paper, ISBN 978-0-521-73549-0.



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**Commissioned by** Rebecca K. Root (Ramapo College of New Jersey)

Two themes come to mind on reading *Ruling the World: Kant's Perpetual Peace* (1795), and President Dwight D. Eisenhower's October 1956 speech on events in the Suez Canal. Each argued a case for universal principles guiding a world order in which force is a last resort, but Eisenhower went one step further in contending: "There can be no peace--without law. And there can be no law--if we were to invoke one code of international conduct for those who oppose us--and another for our friends. The society of nations has been slow in developing means to apply this truth. But the passionate longing for peace--on the part of all peoples of the earth--compels us to speed our search for new and more effective instruments of justice. The peace we seek and need means much more than mere absence of war. It means the acceptance of law, and the fostering of justice, in all the world." [1]

The notion that international relations and international law are closely intertwined, and that much of the former is dependent on universal adoption and application of the latter, has a

long history in scholarship and discourse among political leaders. The founding of the United Nations in 1945, with a charter that began "we the peoples of the United Nations," signified a determination that those who represented governments represented states and therefore, ultimately, peoples; in much the same way the Nuremberg Tribunals held that "crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced." [2] The constituting of world order through the founding of the United Nations under a charter, which represented a constitution, and with executive (Security Council), legislative (General Assembly), and judicial (International Court of Justice) powers, and the almost concurrent prosecution of leaders of Germany and Japan for breaches of the peace, and crimes against humanity, lent credence to the idea that international order was now founded on legal principles and norms that included judicial accountability of states and leaders. Sixty years af-

ter the founding of the United Nations and prosecutions at Nuremberg, numerous multilateral treaties have reiterated the human rights of individuals and communities, and the rights of states. Institutions have been established and given authority to prosecute illegal acts from crimes against humanity to violations of principles and norms of international trade. Yet there is also sufficient ideological and organizational fracture that one is left to wonder just how far the ideas of a global constitution and the accountability of states really have come in three score years since the end of the Second World War.

*Ruling the World* is the product of three years of research and workshops on constitutionalism and international law. A profound contribution to the discourse on the idea of an international constitution that guides the growth of international legal norms and standards, and delivery of justice through judicial apparatus, the volume contains polemics from a number of prominent scholars in international law in the United States, United Kingdom, and continental Europe. Jeffrey L. Dunoff and Joel P. Trachtman develop a functional approach to constitutionalism, noting that “this book is about constitutional practice—and constitutional discourse—at transnational sites of governance” (p. 3). The book is based on the work of scholars from the fields of international relations, international law, and global governance who examine “the conceptual coherence and normative desirability of constitutional orders beyond the state and explore what is at stake in debates over global constitutionalism” (p. 3). At the core of the debate lies the essential question: does the Charter of the United Nations represent a constitution that can be said to guide international law through universally accepted norms and standards? By way of application, the discussion also inquires into the place of the Charter of the World Trade Organization (WTO) as an instrument that more effectively guides the creation and enforcement of norms of international law, born of necessity in the era of globalization. A further line of in-

quiry asks whether international human rights norms and judicial institutions are sufficiently guided by constitutions to allow us to say that international human rights comes under the umbrella of the UN Charter in much the same manner that federal and state laws and courts in the United States come under the country’s Constitution.

Three main lines of thought emerge. The first engages the UN Charter as a global constitution, whose human rights norms provide for protection of the rights of individuals, and demarcate the rights of states and citizens in the way the U.S. Constitution does. The second compares the institutional provisions for protection of rights in the UN Charter with that of the WTO. The WTO is deemed important because it adjudicates the rights of states and non-state entities in the era of globalization. The third contemplates a dichotomy between the UN Charter as evidence of emerging universalism and fragmentation in application of norm-building institutions in international law as evidenced by myriad courts from the International Criminal Court (ICC) to the WTO.

The core discussion is in part 2, “Constitutional Dimensions of Specific International Regimes,” and ranges from discussion of the UN Charter as a global constitution to the nuances of institutions of judicial decision making in the European Union, and the WTO as a constitutional regime. The UN Charter is examined as an instrument that binds states to legal obligations in relation to citizens and communities, while the WTO exists because of globalization and, consequently, constrains states in their relations with economic non-state actors (corporations). Central to the emerging dilemma is the perceived “democratic deficit” that arises from states like the United States joining the WTO, but not acceding to the Rome Statute or the Kyoto Protocol, hence strengthening economic judicial institutions, but weakening human rights treaties and institutions, such as the ICC.

A unique feature of this book, but one given limited treatment, is a discussion of the emerging concepts of cosmopolitan constitutionalism and cosmopolitan sovereignty. Cosmopolitanism transcends monism and dualism in allowing for differences in processes and procedures among states, while providing for graduated authority in judicial authority.

*Ruling the World* is an excellent and timely contribution to the scholarship on international law and, in particular, the notion of evolving globalism in judicial institutions and processes, backed up by internationally and nationally mandated instruments. The editors indicate that this is the first of a series of volumes to explore constitutionalism and fragmentation in international law. This is a welcome opener.

#### Notes

[1]. Dwight D. Eisenhower, "Radio and Television Report to the American People on the Developments in Eastern Europe and the Middle East," October 31, 1956, <http://www.presidency.ucsb.edu/ws/index.php?pid=10685&st=&st1=>.

[2]. *France et. al. v. Goering et. al.*, 22 IMT, 466 (1946).

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