DIATOPIC CONSTITUTIONALISM: OPENING TO GLOBAL CONSTITUTIONALISM

CONSTITUCIONALISMO DIATÓPICO: ABERTURA AO CONSTITUCIONALISMO GLOBAL

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Abstract: The text aims at identifying the opening of a global constitutionalism education from evaluating fundaments of constitutional norms. At first, it was sought to establish a measure of formal similarity between the constitutional texts (rules and principles) of several states. Through expressions contained in constitutional texts it was possible to identify the formal elements which determine several constitutions. The selection of these expressions was carried out randomly, and its majority was broad. It has been demonstrated that there is, at least in textual context, a similarity of half of normative constitutional commands. The method used was analytical because it analyzed constitutional texts based on bibliographies.

Keywords: comparison; constitutionalism; diatopic; global.

Resumo: O texto visa identificar a abertura de uma educação constitucionalista global a partir da avaliação dos textos das normas constitucionais. No início, procurou-se estabelecer uma medida de semelhança formal entre os textos constitucionais (regras e princípios) de vários Estados. Através das expressões contidas nos textos constitucionais foi possível identificar os elementos formais que determinam várias constituições. A seleção destas expressões foi feita de forma aleatória, e, na sua maioria, trata de expressões amplas. Ficou demonstrado que existe, pelo menor no contexto textual, uma semelhança de metade dos comandos constitucionais normativos. O método utilizado foi analítico, porque foram analisados textos constitucionais com base em bibliografias.

Palavras-Chave: comparação; constitucionalismo; diatópico; global.
INTRODUCTION

The paper is focused on comparative law, but only regarding to constitutional texts. Therefore, it is a comparative study that involves some legal devices from several constitutions. This is proposed as an expression form (among many possible ones) of *global constitutionalism*. Based on constitutional texts, a parameter is established to settle a formal similar degree between constitutions in the international community (Wellens, 2009, p. 7-8). The similarity of constitutional texts leads to the possibility that States behave with a certain level of similarity. Therewith would have constitutional powers because the Westphalian State still prevails in the international scenario.

The expression *diatopic constitutionalism* refers to the possibility of identifying similar legal norms among constitutions of the States in the international community (Häberle, 2013, p. 20). The result of applying similar legal norms leads to compatibility by means of how States behave in international scenarios. Thus, it is called *diatopic* that is differentiated or distributed geographically. In this study, the word *similarity* is used instead of equality. It must be considered its material aspects in the interpretation and application. That is recognized through the similarity only in the formal text. However, it is also necessary to highlight that it must be taken into consideration the material distinctions and their interpretations and realizations.

However, the constitutional text is the first point of interpretation of legal command that is the possibility to establish a dynamic of similarity between States in their international relations. Consequently, the similarity is projected through the text. It is concentrated on constitutional law expected, necessary and valid performance, which are reflected in international law.

This happens because the constitutional norms impose actions and abstention to the inner environment of States that reflect externally. When the States perform the right of health care, human and fundamental rights are performed simultaneously. As a result, an idea of *diatopic constitutionalism*, whose objective is to reach a homogeneous international practice through current constitutional norms in different States is achieved.

The favorable aspects to this view are: 1) maintenance of Westphalian sovereignty, guiding principle of the international community and law; 2) normative power of constitution; 3) independence maintenance of the States; 4) constitutional realization in the sphere of international relations with regard to the execution of international treaties, conventions, and declarations. The unfavorable aspects are: a) maintenance of Westphalian sovereignty as a barrier to international integration; b) dependence on internal mechanisms to States for the realization of international norms; c) low interference of the international law in the national environment.

It is highlighted in this Article that the analysis carried out was kept in the textual level by

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2 The comparison in this text is not correlated to identify common or outlying aspects among constitutional texts, just as it should be the comparative law study. See: Kotzur (2015, p. 359).
3 See: Häberle (2013, p. 31).
4 The reflection that the similarity among constitutional norms of various States may cause in international law is not the object of analysis in this text. However, the theme is relevant? due to the nature of the analysis proposed in the text.
the following obstacles: 1) difficulty in accessing data in each State due to language and information; 2) lack of knowledge of each legal system; 3) overwhelming information to be processed to reach to the knowledge of executing respective constitutional provisions.

1 THE WESTPHALIAN STATE AND THE INTERNATIONAL LAW

The contemporary situation of the relation between the States and the international order is the independence of the States. The sovereignty principle still prevails. However, it is necessary to acknowledge the influence of globalization creating a certain degree of interdependence – in the States and international organizations, which stimulate them to adopt similar policies. This is reflected in the approved law norms by the States in the internal and external environment (international).

The Charter of the United Nations (Art. 1st, 2) gives priority to express the principle of independence of States. This means that each State sovereignty should be recognized and respected by its peers. If the fact and the law are there, the consequence is the prevalence of internal norms of the State, including those regarding international law accepted and incorporated by the State. There is an obstacle for the integration between the States, e.g., in the European Union (EU) (Gutan, 2018, p. 104). It is emphasized that the notion of law and constitution is based on European law (Kotzur, 2019, p. 29-30). Many of the constitutions, if not all of them, existing in the international community suffered the influence of the European constitutions, in both form and substance which results in a generic grade of similarity between constitutional texts and institutions, which defines the power and limits of the governmental use of force. Moreover, substantive guarantees such as human rights, human dignity, equality, due process of law, democracy between other guarantees and institutions.

The conception of multilevel constitutionalism introduces the possibility of settling a multilevel network of norms able to keep accepted elements in the political and legal international environment, as in the case of modern constitutionalism. The critical issue is founded in the perspective in which the constitutions of States are the basic norm of legal systems. Consequently, on the one hand, if the independence of States would prevail, on the other hand, the independence is relativized be subordinate to constitutional, international or community norms, e.g., in the EU case. The result would be the fact of constitutional norms (the national and citizens’ interests) to stay subordinate to supranational order.

However, in the case of the EU, the principle of subsidiarity sustains the relation between the States and the EU. Such principle would be found in the Constitutional Treaty and it is strengthened in the Treaty of Lisbon (Art. 3b) (Küwer, 2008, p. 78). It aims to protect the decision-making capacity of the Member States and to legitimize the EU intervention in the insufficient

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7 See: United Nations ([2020]).
conditions in these Members to achieve the levels required by the EU. In the same sense, in terms of Human Rights protection, the Art. 35 of the European Convention on Human Rights set the principle of Subsidiarity (Fabbrini, 2015, p. 5) with as one of the conditions for admissibility of demands intended for Human Rights. Therefore, the European Court of Human Rights should analyze the case after exhausting all domestic judicial remedies.

This strength principle refers to the degree of the sovereignty of Member in front of the EU, guaranteeing a safe place of autonomy for every Member in front of the EU (Fabbrini, 2015, p. 9-11). Therefore, it has to be acknowledged that the States have not ceded their autonomy to the EU at all, so much so that the Member States can leave, as it happened with the United Kingdom (the so-called Brexit). If the EU would have had the sovereignty, the uniting of the United Kingdom would depend exclusively on the EU or such dismemberment would not have been allowed. Thus, the Westphalian State still has strength in the case of the EU.

1.1 The national prevalence

Sovereignty and independence are contemporary legal elements of States. Therefore, the States are like a single and indivisible entity for international law. The States decides about its internal problems and take part (Crawford; Koskenniemi, 2013, p. 121) – with other States – in decisions that lead to international commitments. Thus, in order to think about global constitutionalism, given the legal-political reality of the States, it should be taken a movement that starts internally and ends externally. Without this direction, structuring proposals for a homogeneous global order or an international constitution will be far from a future reality or feasibility.

The importance of constitutional parameters of political positions is taken on by States in the international environment […]. The constitutional rules propitiation to establish normative connections with the international law (Dunoff; Trachtman, 2009, p. 10), and project a regular horizon among the States. By considering the hypothesis that, prima facie, e.g., the constitutional principles of international relations, we may be facing two-dimensional normative situations (or dédoublement fonctionnel) Scelle (1932, p. 54-56), that is, with strength that is both constitutional and international.

This means that the realization of the principles of the constitutional environment is the realization of international law. Standing against them means to violate these principles, therefore it is unconstitutional action. The fact of similar existence of constitutinal norms (rules and principles) among the Constitutions of the international community enabled, embryonically, the conception of one face of global constitutionalism. The connection with international law tends to take place for existing similarity between constitutional and international law. In addition, the realtor and violating individual, for both international and national law, will be the State, but in
their respective dimensions. It is highlighted that the mechanisms of law application are different as well as the normative forces.

1.2 DIATOPIC CONSTITUTIONALISM

The named diatopic constitutionalism\(^\text{12}\) demonstrates the similarity and the equivalence of the constitutional norms in different States Häberle (2013, p. 30). Obviously, the similarity among constitutional texts does not mean efficiency and effectiveness. However, it reveals similarities in the existence level. The presupposition is the adoption and the effectiveness of the normativity, prevalence of the constitutional text, unity of constitution (and the legal system) and practical agreement principles Hesse (1993, p. 24-36). Thus, it is possible to deduce that the States which are similar in values tend to assume similar requirements among themselves and to be principles and rules with similar requirements Häberle (2013, p. 18). This pre-establishes an international community (apart from international law) formally, but not necessarily materially, to the extent that there is a similarity of law that establishes similar conduct among the States, which may have a practical reflection in the internal and external environment.

2 FORMAL SIMILARITIES AMONG CONSTITUTIONS

In this paper, a choice was made to construct a textual research to demonstrate similarities among the Constitutions of States. For so, keywords were selected to find in the constitutions our specific goals. Generic terms such as tolerance, human rights, United Nation, human dignity, and, specifically, right to health care were chosen. The right to health care was chosen randomly so that one right could have a stricter parameter in relation to the others. The language used for the search was English, the same as the database consulted. Therefore, it is maintained in the same language to name the searched States.

2.1 TOLERANCE, INTERNATIONAL RELATIONS, UNITED NATIONS AND HUMAN RIGHTS

The principle of tolerance was found expressly in 48\(^\text{14}\) out of 199 constitutions. However,
this principle might have a wider spectrum and it is implicitly present in other constitutions.

The same research was carried out with the principles of international relations that resemble those contained in 4th Article of the Brazilian constitution. The principles were found expressly in 35 (including the Brazilian Constitution) out of 198 constitutions. In the same direction of constitutional opening to international scenarios, the keywords searched were United Nations and/or Human Rights. The same principles were found expressly in 114 of the 198 constitutions.

15 There are subsequent constitutions: Afghanistan 2004 (Art. 7, Art. 58); Albania 1998 (Art. 17, 2, Art. 121, b); Angola 2010 (Art. 12, 1, 2, Art. 26, 2, Art. 71, 1); Algeria 1989 (Art. 31, 198, Art. 199); Andorra 1993 (Art. 5); Argentina 1853 (Art. 75, 22, 23, 24); Armenia 1995 (Art. 61, 2, Art. 81, 1); Austria 1920 (Art. 148h, 3); Azerbaijan 1995 (Art. 71, Art. 95, 1, 6, Art. 109, 14); Bangladesh 1972 (25); Bolivia 1999 (Preamble); Botswana 2009 (Art. 13, 14, 14); Bosnian and Herzegovina 1995 (Preamble, Art. 1, I, Art. 112, Annex I); Brazil 1988 (Art. 5, 83, Art. 4, II); Burkina Faso 1991 (Preamble); Cape Verde 1980 (Art. 10); Central African Republic 2015 (Art. 23); Chile 1999; China 1982 (Art. 15, 3); Colombia 1991 (Art. 31, 48); Cameroon 1972 (Preamble); Cape Verde 1980 (Art. 16, 3); Central African Republic 2016 (Preamble); Colombia 1991 (Art. 93, 214, 2); Comoros 2001 (Preamble); Congo [Democratic Republic] 2005 (Preamble, Art. 45); Congo 2015 (Preamble, Art. 214, 215, Art. 216); Côte d'Ivoire 2016 (Preamble, Art. 113); Croatia 1991 (Preamble, Art. 93); Cuba 2019 (Art. 16, c); Djibouti 1992 (Preamble); Dominican Republic 2015 (Art. 26, 3); Ecuador 2008 (Art. 11, 3, 7, Art. 57, Art. 93, Art. 156, Art. 157, Art. 384, Art. 416, 7, Art. 424, 436, 5); Egypt 2014 (Preamble, Art. 99, Art. 214); Equatorial Guinea 1991 (Preamble); Ethiopia 1994 (Art. 10, Art. 13, 2, Art. 55, 14); Fiji 2013 (Preamble, Art. 45, 115, 7); Finland 1999 (Section 1); France 1958 (Titre XVII); Gabon 1991 (Preamble); Germany 1949 (Art. 16a, 2, 5); Ghana 1992 (40d, i, 70, 1, a, 71, c, 216); Guatemala 1985 (Art. 46, 273, 274, Art. 275); Guinea 2010 (Preamble, Art. 25, Art. 80, Art. 94, Art. 96, Art. 100, Art. 146); Guinea-Bissau 1984 (Art. 29, 2); Guyana 1980 (39, 2, 154A, 4, 5, 212G, a, 212H, 212I, 212N, 212O); Haiti 1987 (Preamble, Art. 19); Honduras 1982 (Art. 59); Iran 2005 (Art. 102); Kazakhstan 1995 (Art. 12, 1, 5); Kenya 2010 (59, 248, 2, a); Korea (Republic of) 1948 (Art. 10); Kosovo 2008 (Art. 17, 2, Art. 18, 2, Art. 21, 2, 123, Art. 22, Art. 53); Kyrgyzstan 2010 (Art. 16, 1, Art. 20, 40, 1, Art. 41, 2); Latvia 1922 (Art. 91); Lebanon 1926 (Preamble B); Lesotho 1993 (Chapter XI); Libya 2011 (Art. 30, 2); Macedonia 1991 (Art. 10); Madagascar 2010 (Preamble); Malawi 1994 (Chapter XI, 170, 2); Maldives 2008 (Part. 4); Mali 1992 (Preamble); Malta 1964 (1, 3, b, i); Mauritania 1991 (Preamble); Mexico 1817 (Preamble, Art. 15, Art. 102, B, Art. 105, II, g, h, i); Micronesia 1978 (Art. XVI, 1); Moldova 1994 (Art. 4, 1); Mongolia 1992 (Art. 19, 1, 2); Montenegro 2007 (Art. 81, Art. 147, 3, Appendix, Art. 5); Morocco 2011 (Preamble, Art. 7, Art. 19, Art. 23, Art. 92, Art. 161, Art. 164, Art. 171); Mozambique 2004 (Art. 43); Namibia 1990 (Art. 146, 2, d); Nepal 2015 (51, b, 2, m, 1, 248, 249); New Zealand 1993 (Human Rights Act 1993); Nicaragua 1987 (Art. 46, Art. 93); Niger 2010 (Preamble, Art. 44); Norway 1814 (Art. 92); Palestine 2003 (Art. 10, Art. 31); Panama 1972 (Art. 129); Papua New Guinea 1975 (39, 3, b, c, d, e, 279, b); Paraguay 1992 (Art. 144, Art. 145); Peru 1993 (Fourth, Declaration the Democratic Constitution Congress); Philippines 1987 (Art. XII, sec 17, sec 18); Portugal 1976 (Art. 16, 2); Romania 1991 (Art. 20); Russia 1993 (Art. 17, Art. 18, 85, 2); Rwanda 2003 (Art. 139, 1, a, 3, c); Sao Tome and Principe 1975 (Art. 12, 2, Art. 18, 1); Senegal 2001 (Preamble); Serbia 2006 (Art. 20); Seychelles 1993 (49); Slovakia 1992 (Art. 86, d, Art. 134, 4); Slovenia 1991 (II Human Rights and Fundamental freedoms, Art. 47, Art. 68); Somalia 2012 (Art. 3, 4, Art. 41, Art. 110B); South Africa 1996 (181, b, 2, 3, 4, 5, 184, 185, 3, 193, 1, 2, 4, a, 5, 194, 1, 2, b, 3); South Sudan 2011 (9, 4, 43, a, Chapter IV, 169, 4); Spain 1978 (Section 10, 2); Sri Lanka 1978 (41, B, schedule, e, 170, m); Swaziland 2005 (163, 163, 165, 166, 167, 236, d, 2); Sweden 1974 (Chapter 2, Art. 19); Switzerland 1999 (Art. 197, 1, 11); Tanzania 1977 (Chapter 6); Thailand 2017 (Part 6); East Timor 2002 (Preamble, Art. 23); Togo 1992 (Preamble, Art. 50, Art. 138, Title XV); Tunisia 2014 (Art. 82, Art. 125, Art. 128); Turkmenistan 2008 (Art. 2); Tuvalu 1986 (15, 5, c); Uganda 1995 (51); Ukraine 1996 (Art. 22, Art. 55); United Arab Emirates 1971 (Preamble, Art. 12); United Kingdom 1215 (Human Rights Act 1998; Northern Ireland Act 1998, 13, 4, b, Scotland Act 1998, 100, 126, Subheading 3); Venezuela 1999 (Art. 280; Art. 339); Vietnam 1992 (70, 14); Yemen 1991 (Art. 6); Zambia 2013 (232, b, 237, 242, 243, 244). We used the site www.constituteproject.org to quote information from constitutions.
2.2 **HUMAN DIGNITY AND INTERNATIONAL RELATIONS DISPOSITIONS ON CONSTITUTIONS**

The principle of human dignity (or similar expressions) was found in 151 of the 193 Constitutions. The majority of existing constitutions around the World have indicated human dignity as a value in constitutional law. The relation between national and international law involves the normalization process of the international relations of the States. Each constitutional State has rules and principles that organize the communication between international individuals. Therefore, the law regulates who has and the extension of competence the state and how and when...
it should behave externally.

To identify how many constitutions adopt rules and principles which discipline the relation among the political-legal environment, domestic and foreign, 198 constitutions were analyzed, of which 173 have rules and principles concerning the legitimacy and competence of the representatives of the State abroad and the process of internationalization of international law. Most of the cases involve representatives of the legislative and executive branches of government. Thus, the mentioned articles refer specifically to these rules and principles.
2.3 Right to health care

The objective is to ascertain the degree of similarity among the constitutions. Thus, the fundamental right is *right to health care*. It is found in 138 of the 193 Constitutions. Consequently, it is evident that most constitutions explicitly address the *right to health*. Therefore, it does not mean that the others do not refer to this right in some way, but they do not explicitly contain this expression. It is complemented by the idea of *global constitutionalism* through the dimensions of *diatopic constitutionalism*, in the sense that a similar normative spectrum can be identified in the Constitutional texts, so that, internally, the normative requirements are also similar. Internally, in the case of similarity, the tendency is that it is reflected in the relations between the States by force of constitutional law. In this sense, sovereignty would have been maintained with the incidence of constitutional law. In this sense, sovereignty would have been maintained with the incidence of constitutional law. In this sense, sovereignty would have been maintained with the incidence of constitutional law. In this sense, sovereignty would have been maintained with the incidence of constitutional law.
of each State’s Constitution, and the results of incidence of similar norms would be, in theory and abstractly, within a common normative spectrum.

The diatopic constitutionalism does not demand a law document nor any agency of power that overrides the independence and sovereignty of States, that is, it does not mean internalization, but interstate nationalization. It requires the legal-value convergence in the interpretation and the realization of similar constitutional texts. It could be carried out in three forms: 1) by decisions of national courts influenced by decisions of foreign courts; 2) by international treaties, covenants, declarations, and customs by which States are bound; 3) by decisions of international courts. Those three forms would conduct the application of the Constitution, to reduce disparities within constitutional normative-spectrum. As a result, based on constitutional force referring to each State, a praxis would be formed, with a relative degree of homogeneity, capable of establishing legal consensus on fundamental rights and guarantees, democratic rules, organizations, and separation of powers, among other legal institutes.

3 THE CONSTITUTIONAL INTEGRATION THROUGH LAW

The State of law is founded on the principle of rule of law. That principle is an essential paradigm for the effective division of powers, the democracy and the protection and the guarantee of fundamental rights (Kotzur, 2018, p. 34). Therefore, through law, the State is legitimated to act or omit. In terms of constitutional norms, there are rules and principles that open or close the legal system to the external environment. As some examples of constitutional opening norms, it could be mentioned the Art. 4, Art. 5, §2, §3, §4, of CRFB and as closing norms Art. 1, I, Art. 4, I, of CRFB.

The constitutional State respects and watches legal limits. In this point, formal projection among legal systems are in the inner and external environments. For instance, when the Brazilian State materializes the right to health care, simultaneously, it materializes the similar disposition of law that other States have too. For that matter, it does not have discordant actions among States because in the right to health, at least formally, 138 constitutions have the expression right to health care. The problem of can be a decisive factor to move away from the idea that there can be similar practices in the State actions. However, the material aspect is not the object of the present analysis.

4 CONSTITUTIONAL NORMS AMONG THE STATES

This topic reports the numbers that help to understand, partly, the legal approach among different States. The inference is that constitutions are the top of the legal system of the States and that the constitutional norms are supreme, in terms of normativity and binding, being there
interpretado de forma unitária e sistemática. A ideia inicial é sobre a eficácia diferenciada das normas constitucionais, ou seja, todas as normas têm alta ou baixa densidade normativa (Sarlet; Marinoni; Mitidiero, 2019, p. 190-192).

Houve seis diretrizes para a construção métrica. É destacado que a comparação está delimitada aos termos do texto das disposições legais, portanto, não está analisando as respetivas interpretações, eficácia, e efetividade. As diretrizes são: (1) tolerância; (2) princípios constitucionais de relações internacionais; (3) ONU e/ou Direitos Humanos; (4) dignidade humana; (5) normas regulatórias de relações internacionais; (6) direito de saúde. Antes, foi relatada o número de Estados que adotam cada diretriz. Nesta etapa, ressalta-se o nível de similaridade entre as constituições pesquisadas, considerando as diretrizes utilizadas.

É possível presumir que outras diretrizes constitucionais podem ser fatores de similaridade entre as constituições dos Estados. Etabelece-se a medida em relação à quantidade de disposições que são similares em termos de tese e proposta. Portanto, há seis diretrizes, e a quantidade determinará o grau de similaridade. A variação é de um a seis, variando do mais fraco para o mais forte, o meio residindo em três e quatro. A pesquisa demonstrou que vinte e sete Estados têm uma diretriz de similaridade; trinta e um Estados têm duas diretrizes de similaridade; quarenta e três Estados têm quatro diretrizes de similaridade; vinte e nove Estados têm cinco diretrizes de similaridade; dez Estados têm todas as similaridades. A perspectiva é: oitenta e nove Estados têm quatro a seis diretrizes de similaridade; cento e onze Estados têm um a três diretrizes de similaridade; oito Estados têm nenhuma diretriz de similaridade com outros Estados.

**Figura 1 - fatores de similaridade**

![Gráfico de barra mostrando a distribuição porcentual de similaridade entre as constituições pesquisadas]

Fonte: Auto-criado.

Parâmetros parciais mostram que a similaridade formal prevalece entre as disposições constitucionais investigadas: cinquenta Estados têm quatro diretrizes similares em seis. A maioria dos Estados (cento e cinquenta e três) concentra entre dois e cinco diretrizes similares. No entanto, quando considerando...
the total of guidelines and States — more than half of similar guidelines in their constitutional norms, i.e., one hundred and one States have from one or three and eighty-nine States have among four and six similar guidelines.

The comparison numbers lean to the middle degree of similarity among the constitutions searched. Some elements can be added to this result: 1) there were six guidelines, in other words, there were just a few compared points; 2) some guidelines are generic, to the point of being implicitly treated, such as tolerance and the principles of international relations; 3) the comparison was based on the formal-textual aspect of constitutions searched. These elements can reduce the result of the comparison, to the extent that there are similarities in the material dimension of the constitutions or not. Thus, it can be said formally and textually, following the English translation of the constitutional texts and the chosen parameters, that the numbers indicate a low and middle degree of similarity between the constitutional texts of the international community.

**CONCLUSION**

*Diatopic constitutionalism* is a possible path to think about *global constitutionalism*. The highlighted characteristic is that one must think according to the Westphalian State, with sovereignty as the basic principle of international relations. There is still no way to think of a *global* or world (or *multilevel constitutionalism*) because it would have as much value as a declaration, a covenant, or a treaty. The path to be thought must be reversed, using the constitutional rule of law, the effectiveness of norms, and the that the Judiciary can exercise on the acts of the State, especially regarding the effectiveness of Constitutions.

In any case, it is up to the State to enforce the internal and external norms – which it ratifies – (international law) within its jurisdiction. This implies, *e.g.*, enforcing human rights, i.e., promoting them within its sphere of sovereignty, and, within its possibilities, cooperating in the international environment. If a *global constitution* were instituted, the dynamics would be the same, but with the difficulty of overcoming the principle of sovereignty (and independence of States).

The similarity of the normative texts among the constitutions leads, at least formally, to the presupposition of a similar value-normative similarity that can guide the internal actions of States that, in an analogous sense, have an international impact. Thus, *e.g.*, the realization of a fundamental right that is also considered as a human right is, therefore, simultaneously materialized. This impacts the international environment in such a way as to create a legal-valorative community of States that, within their scope of sovereignty, act in a similar manner and under the strength of the Constitution. However, for this to happen, it is necessary that the normative similarity goes beyond the normative texts and materializes into practical similarity.
REFERENCES


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