Contemporary Constitutional Changes in a Multipolar World: Any Role for International Law?

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Abstract

This paper examines several recent attempts that various states have made to support the rule of law by importing international law into domestic law. More specifically, this paper focuses on a new wave of introducing references to international law in national constitutions.

Previously, it was the region of the former Soviet republics and Central and Eastern Europe, which has become “a major laboratory of constitutional works”. More recently, we can witness important constitutional changes in various African (South Africa, Kenya) and Arab (Tunisia, Egypt, Libya) countries. Constitutional changes often occur in states that are in transition after a violent conflict or an authoritarian past or states that are in a time of political or economic transition not necessarily accompanied by violent conflict.

In any case, however, these situations present unique glimpses into “constitutional moments” that often elevate the role of international law (notably international human rights law and international criminal law) in a domestic legal order. The aim of this paper is to examine often still undergoing constitution-drafting processes in some of these countries and to determine factors which play an important distinct role in the “penetration” of international law into national constitutions.