

## Introduction

### Economic Inequality as a global constitutional challenge

*Antonia Baraggia, Mark A. Graber, Ran Hirschl, Lorenza Violini*

“The socio-economic divide has been on the rise in Europe over the past decades, and has intensified since the onset of the global financial crisis. High and rising inequality harms our societies in many respects, not least in terms of economic growth. It can hamper social cohesion, results in lost opportunities for many, and can even result in worse health outcomes”. (OECD, 2017).

The growth of economic inequality is one of the most challenging phenomena of our time. It has shown to have had significant effects on politics and society. Research has traced connections between the increase of economic inequality in all its manifestations, and the recurring crises of liberal democracies, in particular the rise of populism. The economic crisis in Europe, to pick one example, has exacerbated class divisions and deeply affected social rights protection, eroding the basis of the European welfare state. Its impact has been farther accentuated by so-called refugee crisis, in turn putting additional strain on access to social rights to all persons, and threatening the sustainability of traditional welfare systems.

These multiple crises explain why comparative legal scholars have started to study in depth the relationship between constitutionalism, economic inequality, hegemonic conceptions of rights, and the traditional competing paradigms of the “interventionist” state and “abstentionist” state (neo-liberal approaches). Both interventionist and (neo)liberal approaches claim to favor the public interest and reduce inequality. Whether they can deliver upon their promises in deeply divided – and even polarized – societies is up for grabs. The many questions these scholars are considering include:

- What is the role (if any) of constitutional law in facing the rise of economic inequality on a global scale?

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- Is the liberal constitutional model able to respond to the challenges posed by economic inequality?
- Are expanding human rights protection systems and the recognition of ESR on a global scale enough to deal with economic inequality?
- Do existing constitutional theories and constitutional arrangements effectively deal with rising economic inequality?
- What theoretical and institutional adjustments are necessary to alleviate the threat rising economic equality poses to constitutional democracy?

This special issue, featuring a selection of papers presented at the First European Constitutional Law “Schmooze”—an open conversation among scholars of constitutional law that took place at the University of Milan’s Faculty of Law in October 2018—aims to address the complex interplay between constitutional law and economic inequality. It features ten contributions, ranging from general theoretical accounts to papers dealing with a concrete angle or a case-study. The first theoretical part comprises five contributors. Catarina Santos Botelho focuses on the highly controversial constitutional debate on social rights design and the social state. Francesco Saitto’s paper, “The Decline of Middle-Class Constitutionalism and the Democratic Backlash,” looks in historical and comparative perspectives at the dynamic balance between economic inequality and political equality, within the context of the decline of “middle-class constitutionalism,” which characterizes contemporary Western liberal democracies. Antonia Baraggia and Benedetta Vimercati’s paper addresses the relation between human dignity and economic inequality, through the lens of the implementation of minimum income schemes across Europe. Mark A. Graber’s article deals with the relation between the theory of constitutional democracy and the practice of access to justice, in particular in terms of the support system necessary for less fortunate members of the polity to obtain remedies for legal wrongs. Looking at the case law of the European Court of Human Rights, Ingrid Leijten explores the potential and limits of the principle of non-discrimination in adjudicating social rights.

The second part of the special issues, devoted to specific case-studies, features five contributions. Two papers, Irene Pellizzone’s and

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Sabrina Ragone's, deal with economic inequality in time of crisis: Pellizzone focuses on the impact of the economic crisis on women rights in the labour field, looking in particular the case of law of the Italian constitutional court; Ragone explores the impact of the crisis on equality from an institutional point of view, looking at the transformations occurred in the separation of powers in several Eurozone countries during the crisis. Irene Spigno provides an insight into the topical issue of gender violence against low-income women in Mexico. Stefano Trancossi's paper explores the relation between economic inequality and voter choices, through a detailed study of the case of Italy. Lastly, Erika Arban digs into the often overlooked issue of the role of cities in the dealing with socio-economic challenges, highlighting the relevance of a "spatial" approach to the study of economic inequality.

The interrelations between constitutional law and economic inequality are essential to understanding some of the major social and political crises worldwide. Yet, they remain undertheorized. We hope that, through this edited special issue published in *Diritti Comparati*, we help address that gap, unveiling en route some of the most pressing challenges for constitutional democracy, as it faces economic inequality.

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