

CONSTITUTIONAL PLURALISM: CHRONICLE OF A DEATH FORETOLD?

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LEE SHERIDAN CONFERENCE ROOM, LEVEL 1, EU TONG SEN BUILDING
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ABSTRACT

What remains of constitutional pluralism in the wake of the Euro-crisis? According to the new anti-pluralists, the recent OMT ruling of the European Court of Justice signals its demise, calling to an end the tense stalemate between the ECJ and the German Constitutional Court on the question of ultimate authority. With the ECJ's checkmate, OMT represents a new stage in the constitutionalisation of the European Union, towards a fully monist order. Moreover, the death of constitutional pluralism was anyway an inevitable eventuality, an unstable compromise or 'disequilibrium'.

It is argued here that such an account is misguided in attending to the formal at the expense of the material dimension of constitutional development. Putting these dimensions together reveals a dysfunctional constitutional dynamic and a critical conjuncture reached at the present stage of integration: this is multifaceted, reflecting conflict between the telos and nomos of integration, between national political authority and supranational technocratic power, and among the various Member States themselves. These fault-lines in the project of integration, openly exposed by OMT, but also reflected in 'Brexit' and 'Grexit' will not be remedied by judicial fiat and may well be aggravated by it.

The current disequilibrium does suggest that both constitutionalism and pluralism are under threat in the Union, but not for the reasons advanced by the anti-pluralists. The reasons are related to a set of asymmetrical relations, between the Member States and the EU and between the Member States themselves. Constitutional pluralism, in conclusion, may be worth defending, but as a normative plea for the recognition of a horizontal plurality of constitutional orders. It is doubtful, however, whether this can be achieved without radical constitutional re-imagination of the European project.

ABOUT THE SPEAKER



Dr Mike Wilkinson is an Associate Professor of Law at LSE. He studied at University College London, the College of Europe, Bruges, and completed a PhD at the European University Institute, Florence. Prior to taking up his post at LSE in 2007, Mike was lecturer at Manchester University, EU-US Fulbright Research Fellow at Columbia and NYU and was called to the Bar (Lincoln's Inn) in 2000. He has also taught at Cornell University as adjunct professor of law and been a visiting professor at Université Panthéon-Assas (Paris II) and National University of Singapore (NUS).

Participation is By Invitation Only

To register your participation and facilitate lunch catering, please contact Ms Yvonne Lim at lawylhh@nus.edu.sg by 10 Jan. Registration commences at 11.45am.