

1. Record Nr.	UNINA9910811535103321
Autore	Anderson Gavin W.
Titolo	Constitutional rights after globalization / / Gavin W. Anderson
Pubbl/distr/stampa	Oxford ; Portland, Ore., : Hart Publishing, 2005
ISBN	1-4725-5971-1 1-280-80129-8 9786610801299 1-84731-245-4
Edizione	[1st ed.]
Descrizione fisica	1 online resource (170 p.)
Disciplina	342.02
Soggetti	Human rights Constitutional law Human rights and globalization Legal polycentricity
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Note generali	Description based upon print version of record.
Nota di bibliografia	Includes bibliographical references and index
Nota di contenuto	Part One: Constitutionalism beyond the State -- 1: Constitutionalism in an Age of Globalisation -- 2: Globalisation and the Reconfiguration of Political Power -- Part Two: Rights Constitutionalism and the Challenge of Legal Pluralism -- 3: The Paradigmatic Debate: Liberal Legalism and Legal Pluralism -- 4: Internal Legal Pluralism and the Interpretive Question -- 5: External Legal Pluralism and the Instrumental Question -- Part Three: Constitutional Rights in an Age of Globalisation: Towards a Legal Pluralist Theory of Constitutionalism -- 6: Legal Pluralism and the Politics of Constitutional Definition -- 7: Rights Constitutionalism and the Counterhegemonic Difficulty -- Conclusion: Towards a Legal Pluralist Constitutionalism
Sommario/riassunto	Constitutional Rights after Globalization juxtaposes the globalization of the economy and the worldwide spread of constitutional charters of rights. The shift of political authority to powerful economic actors entailed by neo-liberal globalization challenges the traditional state-centred focus of constitutional law. Contemporary debate has responded to this challenge in normative terms, whether by reinterpreting rights or redirecting their ends, e.g. to reach private

actors. However, globalization undermines the liberal legalist epistemology on which these approaches rest, by positing the existence of multiple sites of legal production, (e.g. multinational corporations) beyond the state. This dynamic, between globalization and legal pluralism on one side, and rights constitutionalism on the other, provides the context for addressing the question of rights constitutionalism's counterhegemonic potential. This shows first that the interpretive and instrumental assumptions underlying constitutional adjudication are empirically suspect: constitutional law tends more to disorder than coherence, and frequently is an ineffective tool for social change. Instead, legal pluralism contends that constitutionalism's importance lies in symbolic terms as a legitimating discourse. The competing liberal and 'new' politics of definition (the latter highlighting how neoliberal values and institutions constrain political action) are contrasted to show how each advances different agenda. A comparative survey of constitutionalism's engagement with private power shows that conceiving of constitutions in the predominant liberal, legalist mode has broadly favoured hegemonic interests. It is concluded that counterhegemonic forms of constitutional discourse cannot be effected within, but only by unthinking, the dominant liberal legalist paradigm, in a manner that takes seriously all exercises of political power
