



H.F.R.I.
Hellenic Foundation for
Research & Innovation

Populist Constitutionalism
**1st Call for H.F.R.I. Research Projects to Support Faculty
Members & Researchers and Procure High-Value
Research Equipment**

Title of the research project: Populist Constitutionalism

Principal Investigator: Assistant professor Akritas Kaidatzis

Reader-friendly title: PopCon

Scientific Area: Social Sciences

Institution and Country: Aristotle University of Thessaloniki, Greece

Host Institution: Aristotle University of Thessaloniki

Collaborating Institution(s):Kore University of Enna, Italy; University of Nicosia, Cyprus; University of Sheffield; University of Bologna

Budget: 147.400,00 €€

Duration: 36 months

Project webpage (if applicable): www.popcon.gr

The main objective of the proposed work is to study the various ways in which populism(s) interact with constitutionalism, in order to propose an approach to constitutional law that mitigates populist challenges to constitutional democracy by enabling greater popular participation in constitutional decisionmaking. Somewhat paradoxically, the main idea is that constitutionalism needs to become more “populist”, in order to overcome challenges posed by populist politics. In recent years there has been an expanding literature on a phenomenon identified as “populist constitutionalism”, which refers to the constitutional discourses and practices of populist movements, parties or leaders and their engagement, once in power, with constitution-making and constitutional reform. In that sense, populist constitutionalism poses a challenge to constitutional democracy. However, this has not been the sole usage of the term in literature. U.S. constitutional scholars proposed in the 1990s a different conception of populist (or popular) constitutionalism, which refers to a non-legalistic approach to constitutional law, that rejects the idea that the constitution means (solely) what judicial elites say it means, and contends instead that the political branches of government, as well as political parties, social movements, and ultimately the people themselves have at least an equal say on constitutional meaning. Thus, there exist two different conceptions of populist constitutionalism. A comparative study of their relationship would help illuminate both. Populist (or popular) constitutionalism as an approach to constitutional law aspires to be an attempt to synthesize liberalism with democracy by enhancing popular participation; as such it appears to contradict populism as a political practice. It could be said, thus, that populist constitutionalism in the second sense (as a practice of constitutional law) may reduce the perils of populism in the first sense (as a practice of populists).

Project originality

Novel aspects of our project are the following:

- (a) Systematization and contextualization of the academic discussion on populist constitutionalism.
- (b) A taxonomy of the various forms which the relation between constitutionalism and populism take, and the different contexts within which this relation operates.
- (c) The interrelation of the concept of populist constitutionalism with a broader academic discussion on constitutional dialogue and dialogic perceptions of constitutional law.
- (d) A novel approach to constitutional law, which, beyond judicial interpretations of the constitution, acknowledges the importance that social and political movements, the political system and public opinion may have on constitutional decision-making
- (e) A distinction between “populist” (i.e. taking the people as a homogenous body which exists above and prior to the Constitution) and constitutionalist (i.e. focusing on the particular features of the constitution-making process and taking seriously into account the pluralism of political and social forces) accounts of popular/democratic constituent power.
- (f) A novel account of *anti*-populist constitutionalism, that is, of reactions raised against populist perceptions of the constitution.

Expected results & Research Project Impact

The scientific impact of our project consists mainly in:

- (a) Utilizing and interrelating differing conceptions (e.g. American as opposed to European) of the relation between populism and constitutionalism.
- (b) Utilizing and interrelating the academic work on the relation between populism and constitutionalism by legal and constitutional scholars, on the one hand, and social and political scientists, on the other.
- (c) Establishing an academic network on populist constitutionalism, with an emphasis on the, rather understudied, Southern European countries.

The broader societal impact of our proposal consists mainly in:

- (a) Providing an alternative to illiberal or even anti-democratic tendencies of populist politics, by enhancing popular participation in government and in constitutional decision-making.
- (b) Raising the awareness about the constitutional implications of the activity of social and political actors and enhancing the constitutional sensitivity of citizens, which in turn may enhance their overall political engagement.
- (c) Encouraging a dialogic approach to the Constitution between the different branches of government, especially between the legislature and the judiciary; between different levels (federal/central, state, local) of government; and between national and European institutions, with an emphasis on courts.

Without the H.F.R.I. funding this project would not have been possible. It is crucial that we get the opportunity to fund research done by younger scholars



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