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Introduction on “Society’s Constitutions”

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How could anyone ever assume that there is such a thing as a uniform constitution of modern society? How could anyone believe that everything social could be subordinated to its universal requirements? And how did it come about that liberal private law – according to its self-image – superseded its own function as *societal* constitutional law?

It is “the inherent blindness of liberal constitutionalism vis-à-vis societal sub-constitutions” that led Gunther Teubner (2012: 17) to reveal the paradox of a civil-societal “constitution” free of a state constitution. Teubner (2012: 15 ff.) contrasts the liberal idea of “constitution-free spheres of individual freedom” with the constitutional significance of social institutions and the multitude of “autonomous societal orders”. Referring to Reinhart Koselleck’s (2006: 365 ff.) critical insights into the one-sidedness of state-fixated constitutional histories and the associated constitutional-theoretical neglect of all other legally regulated institutions, “without which a social community of action is not capable of political action” (Koselleck 2006: 370), Teubner’s societal constitutionalism opens up a view of today’s constitutional problems: climate change and ecology, medicine and healthcare, labour and new forms of production and, not least, the digital constitution of cyberspace are just a few, albeit central, arenas of such constitutional conflicts. “Society’s constitutions” modelled on Teubner’s concepts will have to prove themselves in these areas – and their normative foundations will be further reflected upon.

The articles in this special issue examine the social problems described here from different angles and attempt to illustrate and further develop the multiple perspectives and particular potential of Teubner’s societal constitutional theory. They are based on a symposium that took place on 24 June 2022 at the University of Lucerne in honour of Gunther Teubner and whose outcomes, possibly also “surplus values”, are now being presented in written form.

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