How would the preceding theory of organic global constitutionalism be implemented into practice? In this final chapter, I return to the four dimensions of global constitutionalism that together make up the contemporary debate and address what a consideration of organic global constitutionalism may mean for them. The basic taxonomy used was that of Social Constitutionalism, Institutional Constitutionalism, Normative Constitutionalism and Analogical Constitutionalism. As clarified in the previous chapter, organic global constitutionalism does not hope to relinquish the entire discourse to date. It seems an impossible task to consider what organic global constitutionalism would look like under the circumstances of starting from scratch. While this may be theoretically possible, it is impossible in practice. And wiping the slate clean would not correspond with organic growth as organic growth requires something to already be present. Thus, it appears the best approach is to take the current debate as it is, as mapped out in the four dimensions of global constitutionalism, and to consider how global constitutionalism could proceed to change in a more organic fashion. Reconceptualising global constitutionalism would animate those aspects of the debate that have so far been overlooked, namely the emancipatory and anti-imperial aspects of a global constitutionalist debate. The limitations of the contemporary debate are manifested in the fact that it leaves the aspects of process, politics, and flexibility in the dark; in suggesting an organic approach, I would like to cast some light on these neglected aspects. While the previous chapters have primarily considered the theoretical underpinnings of organic global constitutionalism, this chapter seeks to consider its practical possibilities.

After dealing with some preliminary questions regarding a practical approach to organic global constitutionalism, namely Who? What? Where?

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1 Rudyard Kipling, Just so Stories (1902).
When? Why? And How?, the chapter examines what ‘organic’ may mean in a practical sense, beginning with what it does not mean. In considering what it means, this chapter cites various definitions from the Oxford English Dictionary and contextualises them within the global constitutional debate. With these definitions as guides, the chapter examines the four dimensions of global constitutionalism in terms of what their practical application would most likely look like. It almost goes without saying that the practical application of global constitutionalism, even Institutional Constitutionalism, does not mean commitment to a grand project to the ends of a federal world State in the vast majority of cases.² Bardo Fassbender describes the vision of a ‘world State’ as something ‘which to many is still the epitome of horror’.³ What is considered instead is to a great extent more humble. Nevertheless, these humble suggestions made through existing forms of global constitutionalism could manifest problems of international law and could stand in the way of the progressive possibilities of a more organic approach. This chapter provisionally considers how these default understandings could be ameliorated by use of an organic approach. For this organic approach, I draw upon the theory of the previous chapter and the definitions explored in this chapter. The problems with the implementation of the theory I freely admit: while theory could possibly be pure, practice is about compromise. Theory can be abstract, yet practice is contextual. In an interesting twist, practice is of course to be encouraged in global constitutionalism; contextuality that takes the place of abstraction is an important aspect of making the debate more organic. The practical approach below attempts to be as close to the theory as possible, at least to the extent that it does not betray it completely.

This chapter primarily focuses on two recent books: Jeffrey L. Dunoff and Joel P. Trachtman’s edited book Ruling the World?⁴ and the co-authored book by Jan Klabbers, Anne Peters and Geir Ulfstein The Constitutionalization of International Law.⁵ In their opening chapter, Dunoff and Trachtman suggest a ‘functional approach’ to global constitutionalism in which they claim to avoid the ‘definitional conundrums that mark so much of the literature on constitutionalism beyond the state’ in favour of devoting attention to substantive analysis.⁶

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² Mattias Kumm, ‘The Cosmopolitan Turn in Constitutionalism’ in Jeffrey L. Dunoff and Joel P. Trachtman (eds), Ruling the World? Constitutionalism, International Law, and Global Governance (CUP, Cambridge 2009) 259. I have in fact not considered a single author in the above that believes (or claims) world federalism stands at the end of the project of global constitutionalism.


⁶ Dunoff, Trachtman (n 4) 9.