

Global Constitutionalism vs. National Sovereignty: Tensions in an Era of Geopolitical Fragmentation

Dr Priyamvada Tiwari¹, Mr. Keshav Jha², Swasti Jain³, Prachi Mishra⁴ and Mr. Vaibhav Kumar⁵

¹Associate Professor, Faculty of Law, Medicaps University, Indore.

²Assistant Professor, Faculty of Law, Medicaps University, Indore.

³Assistant Professor, Department of Law, Prestige Institute of Management and Research, Indore.

⁴Assistant Professor, Department of Law, Prestige Institute of Management and Research, Indore.

⁵Assistant Professor, TMCLLS, Teerthanker Mahaveer University, Moradabad.

Received:01/08/2025

Revised: 15/08/2025

Accepted:04/09/2025

Published:22/09/2025

ABSTRACT

The current international system is struggling as global constitutionalism faces increasing opposition from resurgent national sovereignty, driven by growing geopolitical divisions. This study examines the core conflicts between these two ideas. It explores how the rise of populist movements, a shift towards a multipolar world, and various global crises has highlighted weaknesses in transnational constitutional systems. Using recent evidence of institutional failures, anti-globalization sentiments, and governance issues in climate and technology, the research points out a key contradiction: while global constitutionalism aims for universal unity, its practical, technical implementation undermines the democratic basis needed for its own acceptance. The analysis suggests these tensions are not temporary political shifts but represent a fundamental change requiring a new understanding of how sovereignty and constitutionalism interact. Instead of seeing this as a win-lose situation, this research proposes a model of "adaptive constitutional pluralism." This framework allows for diverse political and cultural views while maintaining essential universal standards, thus balancing the need for integration with genuine democratic principles.

Keywords: global constitutionalism, national sovereignty, geopolitical fragmentation, democratic legitimacy, international law, constitutional pluralism.



© 2025 by the authors; licensee Advances in Consumer Research. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC-BY-NC-ND) license(<http://creativecommons.org/licenses/by/4.0/>).

INTRODUCTION

The current international system is marked by significant conflict between two opposing ideas of governance: the universal reach of global constitutionalism and the specific claims of national sovereignty. These conflicts have intensified due to increasing global divisions, seen in events like Brexit, the growth of regional bodies challenging global ones, the weakening of international cooperation, and the rise of non-Western legal systems. Global constitutionalism seeks to establish constitutional principles like the rule of law, human rights, and democracy across borders through international courts, human rights treaties, and supranational bodies. However, this universal approach faces opposition from groups advocating for democratic sovereignty, cultural identity, and self-determination. This opposition comes not only from authoritarian states but also from democracies that feel their popular sovereignty and cultural identity are being undermined. The current global divisions are not temporary but represent fundamental changes in the international system, including shifts in power to multiple centers, the spread of different rule systems, and the growing importance of cultural identities over state-based ones.

These changes both challenge the universal goals of global constitutionalism and create openings for new constitutional models that better accommodate cultural differences and democratic accountability. This paper argues that the conflict between sovereignty and constitutionalism highlights fundamental problems in global governance that need both theoretical and practical solutions. The main question is how international systems can balance the goals of global constitutionalism with the need for democratic sovereignty in a world of increasing fragmentation.

Theoretical Framework: Constitutional Universalism and Sovereign Particularity

Global Constitutionalism: Project and Paradox

Global constitutionalism involves understanding constitutional ideas in international law and working towards fair global governance. Currently, constitutional features are appearing in many international areas, such as how trade law uses judicial review, regional systems protect basic rights, and organizations like the EU have similar structures to federal governments. However, global constitutionalism

How to cite: Priyamvada Tiwari, *et. al.* Global Constitutionalism vs. National Sovereignty: Tensions in an Era of Geopolitical Fragmentation. *Advances in Consumer Research*. 2025;2(4):4274–4278.

faces a major challenge: while integrating different sectors is necessary for progress, it can reduce democracy at home without offering enough democratic say internationally. Unlike past constitutional efforts that started with the people's will, current global constitutions often result from agreements between countries. This process can weaken their democratic foundation. This difference causes ongoing problems between making things work and ensuring they are truly democratic. By focusing on specific areas, cooperation becomes easier because difficult political issues are avoided. However, if these constraints add up, they can significantly limit democratic choices in policy without broad public agreement. International trade deals are a good example, as they formalize economic rules but restrict other democratic choices. The crisis of legitimacy shows up in several ways. Movements against internationalism in Western democracies indicate that people reject global governance seen as undemocratic and foreign. The effectiveness of institutions is declining, with organizations like the World Trade Organization becoming stuck and regional human rights courts facing more opposition from member states.

Sovereignty Transformation: Resilience and Evolution
Despite frequent predictions that sovereignty is becoming obsolete, it remains adaptable and relevant. Modern sovereignty goes beyond traditional territorial control to what scholars Ku and Yoo call "popular sovereignty" – the right of a people to govern themselves through their chosen constitutional systems. This view emphasizes democratic authenticity over territorial control, potentially allowing for more international cooperation while still protecting democratic legitimacy. However, even this refined understanding of popular sovereignty is under pressure, as the rise of post-colonialist and post-humanist thinking, coupled with a general disenchantment with globalization, has led to a re-evaluation of the foundational principles of international law, including the rule of law, human rights, and democracy.

Globalization's effects on sovereignty are complex, not simply a matter of erosion. States often agree to limit some of their powers in exchange for economic advantages and better security, a strategy scholar's call "strategic sovereignty management." This approach suggests that the relationship between sovereignty and globalization involves careful trade-offs rather than a win-lose situation.

The Legitimacy Crisis: Symptoms and Sources

The challenge of democratic deficits threatens global constitutionalism. Global constitutionalism suffers from significant democratic legitimacy deficits. Input legitimacy issues are linked to the fact that international institutions do not operate with direct democratization by the people or groups affected. States reach collective agreement regarding international law by carrying out national political processes; however, these do not necessarily mirror citizens' preferences for global

governance. Output legitimacy problems arise when international institutions are unable to effectively respond to global problems, thereby undermining any claim to functional success. This situation is compounded when international climate change bodies are unable to meaningfully halt the degradation of environmental damage; or when international economic organizations are unable to halt increasing economic inequality.

Throughput legitimacy issues focus on the decision-making processes of international institutions, largely perceived as opaque, unaccountable, or providing few opportunities for affected constituencies to participate. The technical nature of international organization work can provide support for sometimes necessary, yet technocratic decision making while simultaneously removing democratic accountability and challenges to their work.

A fourth dimension of legitimacy concerns is referred to as constitutional capture. Global constitutional projects unintentionally but systematically reproduce particular economic and political arrangements, constraining the democratic choice.

SOVEREIGNTY PERSISTENCE AND EVOLUTION

Democratic Foundations of Sovereignty

Contemporary citizenship claims of sovereignty, now increasingly through democratic principles, differ from earlier principles found in territorial sovereignty and functional control. The ideas of popular sovereignty support collective self-determination in respect of the constitutional system chosen by its members and not simply in relation to state sovereignty. The move toward democratizing ideas of sovereignty could make sovereignty ideas congruent with some forms of international engagement and accountability while continuing to embed popular legitimacy.

Cultural Sovereignty and Pluralism

This would look like establishing hybrid governance regimes that delineate responsibilities between the international community, its organizations and associations, and the international and/or nation-states. National and other priorities would determine whether international accountability should be required for national governance practices, and citizens' demonstrations and agency should be tolerated depending on their democratic conditions and organizational capacities. Democratic Innovation in International Governance

To resolve legitimacy concerns, mechanisms for citizens to engage in global decision-making are necessary. International institutions can increase accountability via parliamentary oversight and substantive legislative engagement, such as requiring legislative approval for significant agreements or a greater role for parliamentarians. Citizen engagement can help overcome global problems, and civil society

involvement enables the public to directly inform international policy.

DIGITAL SOVEREIGNTY AND CONSTITUTIONAL INNOVATION

New rules for technology should prioritize international cooperation, with respect for the independence and cultural diversity of countries. To do this, we would create cooperative governance mechanisms, which clearly designate roles and responsibilities, with respect to the principle of subsidiarity (making decisions at the most effective level) and with a way for countries to join in valid and reliable ways, recognizing the differences in need for countries to participate. Cooperative mechanisms should also include cultural interpretations of the roles of corporate actors, community groups, and governments, recognizing that there are many forms other than predominantly Western forms. Technology sharing, and developing capacity and capability should prioritize national sovereignty, and solve societal issues effectively and fit national, and/or cultural contingencies; logistics of technology to address global challenges related to climate change, public health, or digital infrastructure. International standards in technology should be inclusive, while allowing differing technical options and cultural values, and also ensuring interoperability for cooperating systems.

The prevalence of development policy is consistent with economic self-determination and therefore agency to determine its national future. Providers of international development may impose restrictions that limit the options of policies available for recipient countries, while at the same time providing vital financial assistance.

New development modalities, for example South-South cooperation, provide alternative modalities where recipient countries play a prime role and where alternative development models may be prioritized. These models may prioritize investments in infrastructure, industrialization and state-led development over liberal development models. Future research should examine how constitutional frameworks for local governance develop and evolve over time and in light of changing conditions. Longitudinal studies of the outcomes of implementation and other comparative analyses of further cases would contribute to understanding effective practices for local government constitutionalism.

Due to the increasing importance of cities in global governance, the constitutional recognition of local government will become increasingly important. As observes, "contemporary notions of progressive urban governance practice...often call for independent assertions of urban autonomy," which demonstrates the need for constitutional frameworks to enable democratic local governance, not constrain it.

This comparative study contributes to understanding how constitutional design shapes local governance

outcomes and provides insights for constitutional reform efforts worldwide. The experience of India, South Africa, and the United States demonstrates both the potential and the challenges of constitutionalizing local self-government in different political and economic contexts.

Addressing climate change requires integrating climate change into development processes and developing new responses to promoting sustainable development and addressing environmental needs more broadly. This may involve developing a more streamlined process for technology transfer or climate financing, or the establishment of capacity, all while recognizing the sovereign authority of recipient countries and achieving climate environmental targets.

Digital development opportunities similarly require developing strategies for equitable access to technologies which can be beneficial, while also protecting cultural identities and government sovereignty. This is particularly important when thinking about digital infrastructure, artificial intelligence and platform governance for developing countries.

FUTURE DIRECTIONS AND POLICY IMPLICATIONS

Based on this review, several reforms can be implemented to strengthen the balance between global governance and national sovereignty. The first is a systematic increase of parliamentary oversight, including scheduled performance appraisal of international organizations, parliamentary approval of large treaty agreements, and greater engagement of elected officials in global governance processes.

Second, the application of the principle of subsidiarity should dictate the delineation of responsibilities/responsibility tensions relative to the level of government, namely by insisting that global governance should occur only when national responsibilities are unable to address the challenge being considered, however, this principle will need to be backed up by legal obligation commensurate with democratic approval. Financial arrangements represent a critical dimension of local government effectiveness. notes the importance of "adequate funding" for municipalities to fulfill their constitutional mandates, which "may be in the form of own generated revenue and intergovernmental transfers."

India's local governments face significant fiscal constraints, with limited revenue-raising authority and dependence on state and central transfers. identifies "fiscal autonomy of local urban governments" as "the key to unlocking the governance reforms in cities in India."

South African municipalities have constitutional revenue-raising powers but face significant capacity and resource constraints. notes that many municipalities are

"regarded as financially distressed and unable to deliver on their constitutional mandates," requiring "a sustainable differentiated funding model."

The American system provides varying degrees of fiscal autonomy, with home rule jurisdictions generally having broader revenue-raising authority than municipalities operating under Dillon's Rule.

REFERENCES

1. Ayoub, P. M., & Stoeckl, K. (2023). The Global Resistance to LGBTIQ Rights. *Journal of Democracy*, 35(1), 59. <https://doi.org/10.1353/jod.2024.a915349>
2. Bowen, T. R., & Broz, J. L. (2021). The Domestic Political-Economy of the WTO Crisis: Lessons for Preserving Multilateralism. SSRN Electronic Journal. <https://doi.org/10.2139/ssrn.3920630>
3. Eriksen, E. O. (2024). A rightful condition for Europe. *European Political Science Review*, <https://doi.org/10.1017/s1755773924000353>
4. Keohane, R. O., Macedo, S., & Moravcsik, A. (2009). Democracy-Enhancing Multilateralism. *International Organization*, 63(1), 1 <https://doi.org/10.1017/s0020818309090018>
5. Medushevskiy, A. (2021). Global Constitutionalism and Legal Fragmentation: The Populist Backslide in Central and Eastern Europe. *Studia Iuridica Lublinensia*, 30(4), 393. <https://doi.org/10.17951/sil.2021.30.4.393-440>
6. Peters, A. (2022). Against a Deconstitutionalisation of International Law in Times of Populism, Pandemic, and War. SSRN Electronic Journal. <https://doi.org/10.2139/ssrn.4259946>
7. Petersmann, E. (2022). Regulatory competition and plurilateral policy responses in a world without effective global legal restraints. SSRN Electronic Journal. <https://doi.org/10.2139/ssrn.4298361>
8. Reus-Smit, C. (2017). Cultural Diversity and International Order. *International Organization*, 71(4), 851. <https://doi.org/10.1017/s0020818317000261>
9. Rosenfeld, M. (2008). Rethinking constitutional ordering in an era of legal and ideological pluralism. *International Journal of Constitutional Law*, 6, 415. <https://doi.org/10.1093/icon/mon023>
10. Babu, M. D., & Jayaramaiah, N. (2004). Financial Relations Between State and Local Governments: A Study of Karnataka State. *Indian Journal of Public Administration*, 50(3), 762. <https://doi.org/10.1177/0019556120040319>
11. Chilenga-Butao, T. (2020). Decentralisation and recentralisation in South Africa's local government: case studies of two municipalities in Limpopo. *Transformation*, 103(1), 12. <https://doi.org/10.1353/trn.2020.0011>
12. Fuo, O. (2016). Role of courts in interpreting local government's environmental powers in South Africa. *Commonwealth Journal of Local Governance*, 17. <https://doi.org/10.5130/cjlg.v0i18.4840>
13. Fuo, O. (2017). A Critical Investigation of the Relevance and Potential of IDPS as a Local Governance Instrument for Pursuing Social Justice in South Africa. *Potchefstroom Electronic Law Journal/Potchefstroomse Elektroniese Regsblad*, 16(5), 220. <https://doi.org/10.17159/1727-3781/2013/v16i5a2434>
14. Hirschl, R. (2020). Cities in National Constitutions: Northern Stagnation, Southern Innovation. https://tspace.library.utoronto.ca/bitstream/1807/102680/1/IMFG_No51_Hirschl_Nov%202020.pdf
15. Jacob, B., & Jacob, S. (2021). State-Local Relations (p. 141). <https://doi.org/10.1017/9781108935944.009>
16. Kaur, J. (2021). Changing dimensions of right against self-incrimination: an analytical study. *Revista de Drept Constituțional*, (01), 32-42.
17. Batar, S. (2021). Review of capital punishment. *Asian Journal of Multidimensional Research*, 10(12), 422-427.
18. Kumari, S., Nanduri, S., Sharma, H., & Batar, S. (2023). Women in politics: examining their impact on policy development—A comprehensive review. *Multidisciplinary Reviews*, 6.
19. Tyagi, N., Jha, R. S., Chaudhary, A., & Batar, S. (2021). WOMEN IN DUAL ROLE; A SOCIOLOGICAL PERSPECTIVE. *Ilkogretim Online*, 20(1).
20. Kaur, J. (2019). Criminalization of Politics and Politicization of Criminals: A Need for Decriminalization. *Maharishi Journal of Law and Society*, 2(1&), 2.
21. Batar, S. (2021). Gender inequality in india: an overview. *ACADEMICIA: An International Multidisciplinary Research Journal*, 11(12), 458-464.
22. Mlambo, D. N., & Maserumule, M. (2023). Constitutional and Legislative Frameworks for

- the Local Sphere of Government in South Africa: Analytical and Interpretive Perspective. *Insight on Africa*, 16(2), 211. <https://doi.org/10.1177/09750878231211887>
23. Murthy, S. L., & Mahin, M. J. (2015). Constitutional Impediments to Decentralization in the World's Largest Federal Country. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2589471>
24. Nzewi, O., & Sibanda, M. M. (2023). Local Government's Existential Challenge: 25 Years of the White Paper on Local Government (1998–2023). *Journal of Local Government Research and Innovation*, 4. <https://doi.org/10.4102/jolgri.v4i0.168>
25. Pieterse, M. (2023). Rule of Law Through the 'Urban Turn' in South African Constitutionalism. *Hague Journal on the Rule of Law*, 15(2), 305. <https://doi.org/10.1007/s40803-023-00196-y>
26. Reddy, P. S. (2016). The politics of service delivery in South Africa: The local government sphere in context. *The Journal for Transdisciplinary Research in Southern Africa*, 12(1). <https://doi.org/10.4102/td.v12i1.337>
27. Setiawan, A., Tjiptoherijanto, P., Mahi, B. R., & Khoirunurrofik, K. (2022). The Impact of Local Government Capacity on Public Service Delivery: Lessons Learned from Decentralized Indonesia. *Economies*, 10(12), 323. <https://doi.org/10.3390/economies10120323>