



## Constitutionalism 2030

### A Prediction

### The Frame

The first task to be accomplished, thus, is to create a framework that allows to comprehensively address the question at hand. This is not to say, however, that such an enterprise would aspire to be exhaustive. Rather it intends to connect select threads of the phenomenon of a crisis of Constitutionalism (or what is perceived as such a crisis) to a tightly woven net that may prove to be a sufficiently robust basis for any further discussion of the topic. The causes outlined above offer a good starting point to do so; not least because of their respective point of reference: The way they are arranged, they each focus on different layers of the problem described as the “crisis of constitutionalism”. These layers may be described as “Aspects” (that focus on select structural principles underlying Constitutionalism on the national and on the international level), “Areas” (that focus on select fields of international law particularly significant for Constitutionalism on a global level and on their influence on national law) and “Actors” (that focus on key agents that shape the state of Constitutionalism on the national and on the international level). The classification thus introduced allows to address the problem from various angles. This again may serve as the necessary precondition for getting a full(er) picture of the phenomenon at hand. To ensure that, the layers themselves are subdivided in distinct fields. Itemizing the issues outlined above, the framework may be presented as follows:

Aspects	Areas	Actors
Democracy	Int. Human Rights	Institutions
Rule of Law	Int. Criminal Law	Parties
Federalism	Global Trade	Popular Movements

It is evident, that the framework itself as well as its particular subfields may be challenged (at least it may be questioned in one part or another): After all why not put an emphasis on “Limited Executive” rather than on “Federalism”, on “International Environmental Law” rather than on “International Criminal Law”? Of course, one may argue that the subfields so defined are widely perceived to be the essential building blocks of the global constitutionalist project (putting aside the specific take on this project),<sup>3</sup> addressing concerns such as the status of the individual, the interrelation of legality and legitimacy, the interaction between various political entities (broadly understood), the (global) standards these entities have to meet and the forces that shape the process on various levels. Still, challenges as to the adequacy of the fields selected may never be met in a perfectly satisfying manner. At the same time: maybe they needn’t be, as long as the overall impression of the subject thus offered is to be considered insightful: So, while each of the nine fields thus defined is to be studied separately in order to allow for a prediction as to its future development, the contrast with the other fields will offer the comprehensive understanding of how the crisis of constitutionalism will (or rather: may) unfold in a global perspective the project strives to achieve. Not to be misunderstood: this “comprehensive understanding” may be completely off. Reality tends to get in the way of even the best of predictions. But that does not make the endeavor a futile effort. Much rather it invites us to ask the same questions anew once the answers haven been proven wrong, and to do so again thereafter.

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<sup>3</sup> Just see Wiener ea, Global constitutionalism: Human rights, democracy and the rule of law, 1 Global Constitutionalism (2012) 1.