

# Is Legal Pluralism the Future of Constitutionalism? Debating the Complex Relationship

The intersection of legal pluralism and constitutionalism has been a topic of great discussion and debate within legal and academic circles. The concept of legal pluralism refers to the coexistence of different legal systems within a particular society, whereas constitutionalism relates to the principles and norms that govern the exercise of state power and protect individual rights.

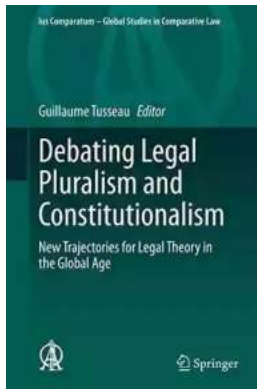
In recent years, scholars have increasingly questioned the traditional understanding of constitutionalism as a singular legal framework that dominates all legal systems within a jurisdiction. Instead, they argue that legal pluralism offers a more realistic perspective on how different legal traditions and cultural norms can coexist within a society.

Legal pluralism acknowledges that within a single jurisdiction, multiple sources of law can exist, such as customary law, religious law, and state law. Each of these legal systems can have its own set of norms, procedures, and institutions that regulate specific areas of social life. This recognition challenges the traditional hierarchical view of law, where state law is considered superior and all-encompassing.

## **Debating Legal Pluralism and Constitutionalism: New Trajectories for Legal Theory in the Global Age (Ius Comparatum - Global Studies in Comparative Law Book 41)**

by Guillaume Tusseau(1st ed. 2020 Edition, Kindle Edition)

★★★★☆ 4.5 out of 5



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Screen Reader	: Supported
Enhanced typesetting	: Enabled
Word Wise	: Enabled
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Proponents of legal pluralism argue that recognizing and integrating diverse legal traditions into the constitutional framework can lead to a more inclusive and just society. They believe that the law should reflect the cultural and social diversity that exists within a jurisdiction, and that indigenous legal systems and customary practices should be given equal recognition and protection.

However, critics argue that legal pluralism poses significant challenges to the fundamental principles of constitutionalism. They raise concerns about the potential conflicts between different legal systems, the potential for abuse and discrimination, and the challenge of ensuring equal protection of rights across diverse legal traditions.

One of the key debates in this field is the extent to which constitutionalism can accommodate legal pluralism. Some scholars argue that constitutionalism should be broadened to incorporate the principles and norms of different legal systems as part of its framework. This would require rethinking the traditional understanding of constitutionalism and embracing a more flexible and inclusive approach.

Others argue that legal pluralism and constitutionalism are fundamentally incompatible. They believe that constitutionalism, as a system based on the rule of law and the protection of individual rights, cannot coexist with multiple legal systems that may have conflicting norms and values. According to this view, constitutionalism should remain the dominant legal framework, while other legal traditions should be considered subordinate and subject to constitutional principles.

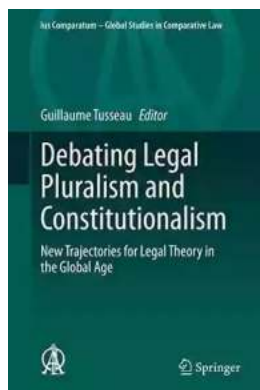
One of the challenges in this debate is finding a balance between the recognition and protection of different legal traditions, while also ensuring the consistency and coherence of the legal system as a whole. The relationship between legal pluralism and constitutionalism is complex and multifaceted, and finding the right approach requires careful consideration of the specific context and dynamics of each jurisdiction.

Despite the ongoing debate, many countries around the world have already started to adopt legal pluralism in their legal systems. Some countries have established special tribunals or dispute resolution mechanisms that recognize and integrate indigenous legal systems, while others have implemented constitutional reforms to acknowledge and protect cultural rights.

As legal and societal landscapes continue to evolve, the debate on legal pluralism and constitutionalism will undoubtedly continue. The relationship between these two concepts is not easily resolved, and finding common ground will require ongoing dialogue and engagement from scholars, policymakers, and legal practitioners.

, legal pluralism and constitutionalism are two complex and interconnected concepts that have generated significant debate in recent years. While some argue for the integration of legal pluralism within the constitutional framework,

others contend that constitutionalism should retain its dominant position. As legal systems evolve and societies become more diverse, finding the right balance between these two approaches will be crucial in shaping the future of law.



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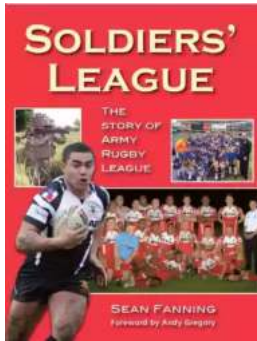
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The book gathers the general report and the national reports presented at the XXth General Congress of the IACL, in Fukuoka (Japan), on the topic “Debating legal pluralism and constitutionalism: new trajectories for legal theory in the global age”. Discussing the major contemporary changes occurring in and problems faced by domestic legal systems in the global age, the book describes how and to what extent these trends affect domestic legal orderings and practices, and challenges the traditional theoretical lenses that are offered to tackle them: constitutionalism and pluralism. Combining comparative law and comparative legal doctrine, and drawing on the national contributions, the general report concludes that most of the classic tools offered by legal doctrine are not appropriate to address most of today’s practical and theoretical global legal

challenges, and as such, the book also offers new intellectual tools for the global age.



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