

# Global influence of U.S. Constitution on the decline, study reveals

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The U.S. Constitution's global influence is on the decline, finds a new study by David S. Law, JD, PhD, professor of law at Washington University in St. Louis.

“Other countries are increasingly turning to sources other than the U.S. Constitution for guidance in establishing [human rights](#) provisions and for general structural provisions in creating their constitutions,” he says.

[Law](#), with co-author Mila Versteeg, DPhil, associate professor of law at the University of Virginia, analyzed 60 years of data on the content of the world’s constitutions.

“The data revealed that there is a significant and growing generic component to global constitutionalism, in the form of a set of rights provisions that appear in nearly all formal constitutions,” Law says.

“Our analysis also confirms, however, that the U.S. Constitution is becoming increasingly out of sync with these global practices.”

Their research, which examined 729 constitutions adopted by 188 different countries from 1946-2006, also found little emulation of the constitutions of Germany, South Africa, and India.

Similarly, no particular treaty or international human rights instrument stands out as an overall model. However, they did note links between constitution-making in other countries and the Canadian Charter of

Rights and Freedoms, although the tie-in was not uniform.

Law and Versteeg found that the constitutions of non-democratic countries tend to exhibit relatively greater similarity to the Universal Declaration of Human Rights, while those of common law countries exhibit the opposite tendency.

“It is difficult to infer from these patterns, however, that countries have actually emulated international or regional human rights instruments when writing their constitutions,” Law says.

Law notes that the article does not stake a position about whether it is a good or a bad thing that other countries do or do not use the U.S.

Constitution as a model, or whether the United States itself is in fact losing some form of international influence.

“Some people have questioned whether we had an ideological agenda in writing this article, but our reasons for writing it were straightforward and not at all sinister,” Law says.

“We had a previous study that identified trends in the global evolution of constitutionalism, and a logical next question to ask was whether the U.S. Constitution was at the forefront of that evolution,” he says.

“We also thought that people would be interested in the answer to this question, and we hoped to demonstrate that empirical scholarship in the area of constitutional law, which remains extremely rare, can be of interest to a wider audience.”

Law says newer constitutions are part of a “polycentric evolutionary process” that does not favor modeling based on a “specimen that is frozen in time.”

“If the United States were to revise the Bill of Rights today — with the benefit of over two centuries of experience, and, in a manner that addresses contemporary challenges while remaining faithful to the nation’s best traditions — there is no guarantee that other countries would follow its lead.

“But the world would surely pay close attention,” Law says.

Law and Versteeg’s article, “The Declining Influence of the [United States](#) Constitution,” will appear in the New York University Law Review.

The authors’ forthcoming research will look at which [countries](#) are guilty of having sham constitutions.

“We couldn’t agree more with the quotation from Justice (Antonin) Scalia in The New York Times article that some constitutions are not worth the paper they are written on,” Law says.

“This is a question we have been thinking about for some time,” he says, “and we think we now have something original and empirical to say about it — beyond merely repeating the obvious point that some constitutions are sham constitutions.”

Provided by Washington University in St. Louis

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