Page 3120 - 3132 **DOI:** *https://doij.org/10.10000/IJLMH.116478*

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 6

2023

Universalism of Comparative Constitutional Law Testing the Relevancy of The Global South Critique

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ABSTRACT

Comparative constitutional law as a discipline is heavily engaged in the task of knowledge creation. Its primary object has been the constitutions around the world. Under the aegis of this discipline, one studies the constitutions around the world and analyse the plurality of the constitutional principles and rules with the aim to develop certain universal constitutional conceptions and model apart from identifying and elucidating the fundamental values that form the basis of the constitutional arrangements and agreements. But despite having such elaborate and essential objectives of the subject, it suffers from certain fundamental challenges and questions which if not answered seriously undermine the basis and legitimacy of the discipline itself.

One such major cause of concern in this regard is that the discourse and research endeavours in this field are elitist in nature and is based on a select set of elite nations in the "global north" who are politically stable, economically secure constitutional democracies and the discipline in no regard displays representational character and does not answer any questions of constitutional importance pertaining to the concerns of the global south.

Further, global south as a distinct approach has not been given its chance at recognition in the field of comparative constitutional law, thus and it can be said that the gap in this regard is preventing the discipline from becoming a full-fledged discipline of law. Further, a major debate regarding comparative constitutional law is the debate between universalism and particularism. This is important as questions are raised whether or not there is a need to develop certain fundamental and universal principles in the arena of constitutional law or not.

Therefore, it is important that we make the discipline of comparative constitutional law more inclusive and biases towards the southern scholarship and with respect to case selection for conducting comparative study without any basis must be eliminated. But, at the same time the shortcomings of the global south critique must also be addressed to ensure that it is not just criticism for the sake of it and has quality reasoning behind it. This will

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 [ISSN 2581-5369]

help us to ensure that the study regarding comparative constitutional law and will be more widely accepted and well received around the world.

Keywords: *Comparative constitutional law, global south, elitist, biases.*

I. INTRODUCTION

A concern often raised in the context of comparative constitutional law is that the discourse and research endeavors in this field are elitist in nature and is based on a select set of elite nations in the "global north" who are politically stable, economically secure constitutional democracies and they in no manner represent or answer any questions of constitutional importance[2]. It raises certain questions of fundamental importance, as to whether it would be correct to consider such a work to be truly "comparative" in nature and can it result in production of certain generalizable principles applicable in local jurisdictions. Answering these questions is a necessity, if we intend to regard comparative constitutional law as a global discipline and therefore, we must address the critique of the global south towards the universalism of comparative constitutional law and answer the question whether or not this is a legitimate critique or not or is another misplaced critique based on the concept of "cultural relativism'.

At the same time, we must elaborate and discuss the difficulty that whether or not we should aim for universalism for comparative constitutional law as often in doing so we endup aiming for certain universal ideas and principles which can be a wrong approach in furtherance of the idea that every constitution and the jurisprudence associated with it, exists in a particular form not just as a matter of coincidence but due to the reason that it has travelled a certain path and this path is different and unique for each nation.

The belief that certain universal constitutional ideas apart from basics can be applicable across the globe without interpretation and a certain level of moulding can be said to be a belief without any practical footing and up to an extent is disrespectful of the constitutional journey based on historical events and character of a nation. At the very least, the global south critique must be given due regard and attention by the scholarly community and its importance must be realized as it is an incorrect approach to completely disregard the issues and concerns of majority of the world's population. It can be observed that the discipline often falls prey to the selection bias or the phenomenon of cherry- picking. In furtherance of this error or bias, it is

[2] Ran Hirschl, Comparative Matters: The Renaissance of comparative constitutional law 215-217 (Oxford University Press, 2014).

 [ISSN 2581-5369]

often the nations of the global south which are left out of the scope of the research and this exclusion often leads to false generalizations which ultimately undermine the legitimacy of the discipline. Also, it can be said that even though the challenges regarding constitutionalism are far greater as compared to the global north, yet these questions which are of fundamental importance for the nation states of the global south are ignored.

II. SCOPE OF THE "GLOBAL NORTH" AND THE "GLOBAL SOUTH?

In the quest of ascertaining whether the voices of the global south are being heard or not and are included in the global discourse regarding the discipline of comparative constitutional law at the global scale, we must firstly understand and ascertain the scope and criteria based on which we are labelling a country as belonging in the categories of either the global north or the global south.

The origins of this classification lie in the 'Brandt Report', officially titled as 'North-South: A Programme for Survival', which proposed the division of the world on the basis of the 'Brandt Line', which classifies the world in two groups, "the global north" and "the global south", depicting international inequalities and socio-economic differences which exist between these regions of the world and essentially divided the world into two groups- the industrialized global north (the northern hemisphere) and the underdeveloped global south (the southern hemisphere) with a few exceptions[3].

The global in geopolitical can be meant to cover the regions such as North America, majority of Europe, Australia, and New Zealand primarily. while the global south customarily includes the regions of Africa, South America, and large portions of Asia and the region of Middle East[4]. There is no formal consensus as to what do we mean by categories of the "north" and "south." But often the understanding is that nations called the "global north" mostly possess advanced form of democracy, governance mechanism, economic development, and human development levels as compared to the nations belonging to the "global south."[5]

But this classification is often questioned and the argument is given in this regard that since the 1980s when this classification was brought the world order has changed and it is said that this classification no longer is relevant in the modern world and examples given in support of

[3] Nicholas Lees, *The Brandt Line after forty years: The more North–South relations change, the more they stay the same?* 47 Review of International Studies, 85–106 (2021).
[4] Lemuel Ekedegwa Odeh, *A COMPARATIVE ANALYSIS OF GLOBAL NORTH AND GLOBAL SOUTH ECONOMIES,* 12 Journal of Sustainable Development in Africa 338 (2010).
[5] The Global North/South Divide, https://www.rgs.org/CMSPages/GetFile.aspx?nodeguid=9c1ce781-9117- 4741-af0a-a6a8b75f32b4&lang=en-GB (last visited on Nov. 24, 2022).

 [ISSN 2581-5369]

this argument are China, India among others[6].

But, barring a few exceptions such as China which have led to the increase in Global South's power the world order has largely remained the same and still it is the dominant group in terms of its economic prowess which is a factor that is essential to socio-political stability of a nation as well and carries along with it the power to dominate research discourse as well.

III. ARGUMENT ON THE NEED OF INCLUSION OF THE VOICES OF THE GLOBAL SOUTH IN THE DISCOURSE PERTAINING TO COMPARATIVE CONSTITUTIONAL LAW

At its core, this critique, it argues firstly that the current methodology adopted by the scholars of comparative constitutional law is faulty as it largely bases its findings on a limited sample mostly belonging to the global north and then practically seeks to generalize and apply across varied legal systems on a global level. Further, it argues that this approach underscores the ordering in comparative constitutional literature of concepts like liberal rights and liberties along with freedoms or restrictions on governmental action, and the subsequent ignorant approach to concepts and ideas particularly relevant to the concerns of the global south[7].

Even though, it is largely believed that the discourse with respect to comparative constitutional law has transformed and has become more inclusive in its character but the global south's impact in the arena of theory is not very significant[8]. Further, global south as an approach has not been recognized in the arena of comparative constitutional law, thus, in a way the absence of this approach is preventing the subject from becoming a full-fledged discipline of law.

It is important that the discipline is inclusive not just with respect to the criteria of selection for comparison, but also shall investigate the approaches, methodologies, and perspectives of scholars of the global south as well and importance should be given to scholarship based on countries of the "global south."[9] Further, it must be realized that it is rather important that

if such an act is performed with due care, it can serve as an arena of landmark constitutional transformation which can go a long way in certain troubled and unstable democracies belonging to the" global south."

It is said that if we closely analyse the "universal" ideas and principles which we currently have, we are bound to see provincial undertones in the same. Even the application done by the judiciary of these principles, as when doing the same, the peculiar conditions existing in each

[6] *Id.*
[7] Ran Hirschl, *supra* note 1.
[8] Philipp Dann, Michael Riegner, and Maxim Bonneman (ed.), The Global South and Comparative Constitutional Law 3-5 (Oxford University Press, 2020).
[9] *Id.*

 [ISSN 2581-5369]

country are often forgotten which often results in a situation, wherein, even though reforms and development and transplant of constitutional ideas is done theoretically and on paper but are not very successful on ground and even though the conscience of the elite becomes happy but we are unable to see their presence in the discourse amongst the masses.

Also, the application of judiciary shows inclination towards certain western jurisdictions only. Recently, Constitutional Courts' decisions from common law jurisdictions such as South Africa, Canada, New Zealand have contributed massively towards the development of comparative constitutional law[10].

Examples of the same are the Justice K.S. Puttaswamy v. Union of India[11], Indian Young Lawyers' Association v. State of Kerala[12] and the case of Navtej Singh Johar v. Union of India[13], wherein the Supreme Court has relied heavily on 17.54%, 18.37% and 7.22% American judgements respectively[14]. This although can be a good catalyst for the purposes of comparative constitutional law but at the same time can be criticized on the grounds of cherry-picking and the selective reliance on certain legal jurisdictions only despite being socio-politically and structurally very different from these nations, thereby warranting caution in this regard. Even when we observe that countries other than the USA or the European nations are considered in comparative legal exercises, it is only rarely that both the countries are of that character and in most of the cases, we end up assessing the countries of the global south based on Western standards and perceptions.

Further, this debate is important, especially as we see that in other subjects belonging to the family of social sciences such as anthropology and sociology, you can see the presence of the southern scholarship presenting the perspectives and approaches with bases in the global south. But no such school of theory can be easily observed in the context of comparative constitutional law or comparative law for that matter[15].

An approach which can help us to make the scholarship of comparative constitutional law richer in character can be that we look at the "global south" as not just in terms of geography or economy but as a school of thought which gives voices to the sections which are poorly represented or have not been given a place in this field of research and thus the literature so

[10] K.G. Balakrishnan, *THE ROLE OF FOREIGN PRECEDENTS IN A COUNTRY'S LEGAL SYSTEM*, 22 National Law School of India Review 3 (2010).
[11] Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.
[12] Indian Young Lawyers' Association v. State of Kerala, (2017) 10 SCC 689
[13] Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.
[14] Which foreign judgments does the SC cite? *Available at*: https://www.scobserver.in/journal/which-foreign-judgments-does-the-sc-cite/ (last seen on Nov. 27, 2022).
[15] *Supra* note 1.

 [ISSN 2581-5369]

developed.

But often while undertaking a study in this regard, we fail to engage with the fundamentals of this debate and ascertain whether or not we can formulate a universal model in the context of comparative constitutional law, is it really of any merit and if yes, can we ensure that the universal model of constitutional ideas which we seek to develop be more inclusive so as to accommodate the modalities and peculiarities of different legal jurisdictions around the world. Often, even in the cases where global south is taken up as a subject matter of study, one can see that the erstwhile colonial or imperial powers have prevented proper development of a constitutional identity of a constitution. This is important as select few legal systems not only have been the focus of comparative constitutional law studies on the global level but also have subdued the individual identity of other legal systems as well. Thus, we can say that continuing this non-inclusive approach even in the matters of comparative constitutional law would be an incorrect approach and should be corrected henceforth.

Also, it is claimed that this approach is important and, that the legal system of the countries of the global south are not considered to be objects of study and individual. An important aspect to consider is that care must be maintained with respect to the rigor and quality of the academic literature contributed from the institutions belonging to the global south. This ensures the proper inclusion of the voices of the global south and not just for namesake. Though, another aspect of this issue is often the possible elitist attitude of the institutions of the north which are reluctant to hear the southern perspective and are often considered

to be in want of approval and accreditation from the institutions and scholarly community of the north. This is one of the leading causes of concern of scholars and academicians from the global south[16]. Such an approach could also help us reduce the tensions which arise if we attempt to impose "universal" values in domestic legal systems without including the domestic legal scholarship in this process. Similar parallels can be drawn in the field of comparative constitutional law as well. If the northern scholarship is attempted to be imposed on the global south without following a due process, it would not be very well received.

IV. DEBATE BETWEEN UNIVERSALISTS AND CULTURALISTS

Ran Hirschl in his book, "Comparative Matters: The Renaissance of Comparative Constitutional Law," draws our attention to another aspect of this issue which is the debate

[16] Daniel Bonilla, *Towards a Constitutionalism of the Global South*, available at: https://www.palermo.edu/Archivos_content/derecho/pdf/Session%201%20-%20Bonillla.pdf (last visited on Nov. 23, 2022).

between the universalists and culturalists.

The universalists are scholars who highlight and focus on elaborating on certain elements which can be observed in almost all legal systems across the globe and are universal in nature, whereas, the culturalists aim at emphasizing the uniqueness and distinctives any given legal system. Under this school of thought, legal transplant is a very important activity and is extremely resourceful when it comes to bringing about reforms in legal systems across the globe and throughout the course of history irrespective of the background in terms of political, social, or cultural considerations in the legal systems which is at the receiving end of the act of legal transplant[17].

As we know that the world is observing political and economic stability, and often in times like these we see that the constitutional rights and guarantees of the citizens come in danger and are attacked upon. Therefore, it can be argued that in a situation like this only a strong constitution can survive and if certain basic provisions and principles, if will be present will help in enshrining upon the citizens greater constitutional guarantees in times of crisis, especially.

Whereas, the culturalists, are of the opinion that it is important to recognize the cultural along with the linguistic contexts of a particular legal systems. Further, it is often seen that in the quest of creating a universal discipline of comparative constitutional law, we end up ignoring these very points of consideration and is a major criticism of the subject. Also, certain legal jurisdictions have been very poorly ignored in this context as the region of Africa or even South America are seldom mentioned and largely remain on the receiving end of the transplantation of ideas[18].

One of the reasons behind this ignorant attitude displayed towards non-English speaking countries is the comfort which the researchers experience when it comes to procurement of materials for research. This is one such barriers which creates divisions even amongst the countries of the global south. Examples of the same can be countries such as India and Brazil which are difficult to place in any one of these categories as even though they cannot be easily placed amongst the “global north”, yet have travelled a lot in their journey of growth and development that they cannot be belonging to certain poor and unstable countries of South America, Africa and Asia.

But, as it is fairly easy to procure literature for research regarding them and their prominent position in the erstwhile colonial empire of which they were a part of, therefore a country such

[17] Ran Hirschl, *Supra* note 1.
[18] *Id.*

 [ISSN 2581-5369]

as India often finds a place in a comparative exercise in the area of comparative constitutional law, whereas, countries of Latin America or the Middle East which place much importance on languages other than English are rarely researched upon.

Even the very democratic foundations of these constitutions are a result of are not attached to ground realities and are the result of the colonial endeavors of the West. Thus, not repeating the same mistake of ignoring historical and cultural realities of a nation is of utmost importance if we want the comparative exercise to be a success[19].

Further, as many of the nations of the global south function under a legal system which was largely developed during the times when they were under colonial control, these legal systems are believed to be inferior in nature and any theory or constitutional idea developed in furtherance of functioning of such a legal system is not fit for study on a global scale with the reason given that there is a want of uniqueness and individuality and any particular feature which is different or indigenous in its character and is not found in the western world.

Further, it can be said that even if we agree that the quest for universalism has at its core a good intention to inculcate certain beneficial constitutional practices and principles in constitutional discourses around the world but yet there are complications attached to it, which we cannot and must not ignore. Further, it often gives rise to a situation where we see that the principles and believes of the legal systems of the "global north" are considered to be superior in their character and often gain precedence in this regard. This is a major issue which hampers the growth of the discipline and prevents the less developed and poor countries which often have suffered historical wrongs in the hands of these very countries in the global north from contributing towards the scholarship of comparative constitutional law and comparative law in general.

It is also argued that while aiming for developing certain global constitutional values, a common mistake is that attempts are made to ensure universality of norms and values and mostly these values are those belonging to the west or the global north. Further, domestic constitutional and legal realities are ignored. This is also considered to be a modern form of intellectual imperialism as well. This is an important point of consideration as if we do not undertake due care the research thus produced would be of no relevance to half of the world considering that the socio-political conditions and structure of the global south on a broader scale is very different from that of the global north. Also, findings produced in furtherance of

[19] Antonia Baraggia, Challenges in Comparative Constitutional Law Studies: Between Globalization and Constitutional Tradition, https://www.bjutijdschriften.nl/tijdschrift/lawandmethod/2017/10/lawandmethod-D-17-00009 (last visited on Nov. 24, 2022).

 [ISSN 2581-5369]

research based on faulty and irrelevant sample even though is easy for the researchers owing to availability of material is hardly useful for the larger community of comparative law.

Certain regions of the world are often believed to be and portrayed as intellectually inferior and unfit to develop constitutional ideas and principles which could be applicable globally and even if any such intellectual development is made, such principle or development cannot be applied across the globe and especially in the global north as it is perceived that the researchers and scholars located in the global south would not be able to produce such a result as the legal systems of the south are inherently inferior to ever comprehend and act on the issues and concerns of the jurisdictions of the north. But unfortunately, it is expected by the global community working in the arena of comparative constitutional law, that not only is one expected to rely on the research from the global law while conducting a research work to justify what you produce as an output of your research but also a research work will gain legitimacy only when recognized and acknowledged by the "global" intellectual community which mostly belong to the global north only.

Also, the presumption that the constitutions of the countries of the" south", even after being developed after great difficulties, lack these "basic" or fundamental principles is faulty and it can also be said that it is not clear that what are these basic principles or how were they decided upon. Thus, it can be said that unless this discourse becomes more inclusive and starts listening to the voices of the nations of the global south, only then can we legitimately decide as to what constitutes these fundamental principles which come about after a thorough study regarding comparative constitutional law and will be more widely accepted and well received around the world. Further, it has to be understood that a solution in this regard could be that it is realized that a researcher in the field of comparative law maintains due caution and not just pronounce legal generalization regarding a legal system but rather understand the deeper context-based structure of a legal system before engaging in a comparative exercise or before engaging in constitutional transplantation of any manner.

Additionally, the universalists-culturalists debate has been highlighted by Ran Hirschl in the above-mentioned book in the context of international criminal law jurisprudence as well regarding the universalization of certain norms in jus cogens which is often resisted in furtherance of the argument of cultural relativism. This again highlights the need of a more diverse discourse in comparative constitutional law. Further, it draws our attention to the dangers of attempting to impose universalism without undertaking the due process of discussion and consultation with respect to development and imposition of any legal principle

 [ISSN 2581-5369]

or constitutional idea[20].

The same can be seen in the context of human rights as well. International human rights law[21] is an example wherein, we can observe the regional and domestic resistance to enforcement of international norms and the international agencies involved in this regard such as the United Nations and its subsidiary agencies such as the UNHRC and UNESCO among others are elitist in nature and do not give due regard to cultural sensitivities and as a result face the issue of proper implementation of even the well-intended norms.

This idea can be seen as relevant even in the context of comparative constitutional law and forced universalism does more than good to the subject. Also, it would not be correct to pronounce which of these approaches is "correct" or "incorrect" as arguments of both these sides tend to get to extremes of their respective arguments. Those conforming to universalist approach, tend to lighten the importance of the impact of peculiarities of any given legal system on development and propagation of universal constitutional ideas, whereas, those possessing culturalist ideas often tend to focus excessively on the differences amongst various legal systems.

V. CRITICISMS AND CHALLENGES OF THE GLOBAL SOUTH CRITIQUE

One of the primary criticisms levied against the global south critique is that the scope or the ambit of the" global south" is simply too wide as well as vague. It is very difficult to clearly demarcate the same. It is generally considered that the "north" which dominates the comparative constitutional law discourse primarily consists of European countries along with the USA, which are very few in number and the rest of 150+ legal systems are what it is claimed are the global south. Thereby, making the scope of the same too vague to comprehend[22].

It is also unclear what exactly makes a country "south" which is a fundamental pre-requisite if we want to study the discipline of comparative constitutional law from the perspective of the global south[23]. It may refer to countries which are not economically prosperous or countries which are politically unstable or countries situated in a particular geographical zone or even perspectives which are underrepresented in the discourse in this regard which can even be an

[20] Mark Tushnet, *The Universal and the Particular in Constitutional Law: An Israeli Case Study*, 100 Columbia Law Review 1338-1340 (2000).

[21] Donnelly, Jack. "Cultural Relativism and Universal Human Rights." Human Rights Quarterly, vol. 6, no. 4, 1984, pp. 400–19. JSTOR, https://doi.org/10.2307/762182. Accessed 25 Nov. 2022.

[22] Ran Hirschl, *The Continued Renaissance of Comparative Constitutional Law,* 45 Tulsa L. Rev. 771 (2013).

[23] Maartje De Visser, Rethinking the Concept of the Global South, http://www.iconnectblog.com/2022/03/rethinking-the-concept-of-the-global-south/ (last visited on Nov. 24, 2022).

 [ISSN 2581-5369]

European country and not an Asian or African country which are often considered to be the constitutive elements of the "global south"[24]. Also, the criteria which a country or legal system must fulfill in order to be called a nation of the "global south" is also not clear and is very subjective in nature[25]. Is the basis of the same, the size of the economy or is the differentiation based on certain geographical criteria, this is not yet clear. Also, another problem in this regard is the overgeneralization or the countries belonging to regions which are often believed to be belonging to the global north as well.

Further, we must not forget that even though one cannot argue against the call for the discipline of comparative constitutional law to be more diverse and democratic in nature but at the same time we must keep in mind the diversity which exists in the non-global north countries. We must be able to answer the question as to how to consolidate the voices of the global south at least on a regional level, otherwise, it would practically be impossible to ascertain and accommodate as to what exactly are the requirements and concerns of the global south nations.

It can be said that even though the global south perspective helps us in providing insights in matters wherein, there are a unique set of circumstances requiring a different perspective and expands our range of observations. Further, it helps us avoid untoward generalizations.

But, at the same time, due care has to be taken to ensure that in spirit of recognising the voices from the global south, we do not oversimply the state of affairs in the sense that we do not stop recognising the differences and peculiarities of different legal systems and do not equate U.S.A and Bangladesh or India and Canada. Unless this caution is abided by, the research product would not be very useful with respect to practical purposes.

Also, one possible mistake in this regard would be that when it comes to the stage of selection of legal systems for study, we mistake shared past or common past of two nations as a criterion which qualifies them to comparable and often fail to identify other structural and conceptual consensus on certain fundamental ideas in order to enable them to be comparable.

Another, point to consider in this regard is that in certain cases, the legal systems, structures and institutions functioning in the global south are not very unique in their character and are a result of deep influence of certain mighty colonial powers who are considered a part of the global north[26]. Thus, these legal systems have no new perspective or identity as such which

[24] *Id*.

[25] Hirschl, Ran, How Universal is Comparative Constitutional Law?, Comparative Matters: The Renaissance of Comparative Constitutional Law (Oxford University Press, 2014).

[26] Dinesha Samraratne, Comparative Constitutional Law, Colonialism and Empire, https://blog-iacl-aidc.org/2021-posts/2021/10/21/comparative-constitutional-law-colonialism-and-empire-part-i (last visited on Nov. 24, 2022),

 [ISSN 2581-5369]

can contribute positively to the literature of comparative constitutional law.

VI. CONCLUSION

Without giving the due regard to the global south discourse with respect to comparative constitutional law we would be massively compromising on the comparative aspect of the subject and a wholly North based discourse would not serve our purpose, thereby, rendering the whole exercise as futile and thus would not be serving any true purpose.

Further, it is important to remember that a very important consideration in the arena of comparative constitutional law and comparative law in general is that, it is of utmost importance that we go beyond mere simple comparison on the surface level and actually go beyond the surface. It is essential that we keep in mind the deep contextual structure of the legal system of a country while undertaking a comparative exercise. In furtherance of this idea if for the sake of universalism, we begin comparing two legal systems with no connection whatsoever belonging to varied regions of the "global north" and "global south", it would bear no fruit and the intellectual Labour put in by the researchers would go waste. Thus, we must undertake such an exercise with due caution and do not compare two different countries without putting any mind behind the cause.

Another point to consider in this regard is as often the aim behind conducting an exercise in comparative constitutional law is the act of "legal transplant" and researchers and countries seek to conduct a comparative exercise and in furtherance of the same transplant legal concepts and provisions which after thorough research, they believe that would serve the cause of improvement and furtherance of their legal systems.

Any comparative study done without due caution and presence of mind would result in transplant of legal concepts from a legal jurisdiction of the global north to the global south would prove to be a massive failure. Thus, it can be said that recognizing the differences in our world order and divisions such as this one is not always bad and while there is no doubt that inclusion of voices from the global south is essential and without the same a truly universal discipline can never shape up, such inclusion must be done after thorough consideration and with great care with respect to the step of choosing the jurisdictions for the sake of comparison.

This paper presents the argument that comparative constitutional research often studies constitutional ideas in a shallow man and elaborate on the uniqueness of the constitutional experiences in the Global South. If we do so, we provide a more wholesome understanding of the varied versions of constitutionalism globally, their individual limits and limitations.

 [ISSN 2581-5369]

At the very least, the global south critique must be given due regard and attention by the scholarly community and its importance must be realised as it is an incorrect approach to completely disregard the issues and concerns of majority of the world's population. But at the same time, it would be incorrect to say that this critique is fully sound. It has its own set of challenges and questions which if not answered would result in this critique making no impact on the scholarship of the subject and improve it for the better.

Further, a problem which exists at the very basis of this critique is that at present it is quite vague regarding certain issues. One such example is the scope of the "global south". Unless such fundamental questions are answered we would not be able to present an actual critique which can then go on to make an actual improvement in the subject of comparative constitutional law.

Also, we must not forget to take due care has to be taken to ensure that in spirit of recognising the voices from the global south, we do not oversimply the state of affairs in the sense that we do not stop recognizing the differences and peculiarities of different legal systems and do not equate U.S.A and Bangladesh or India and Canada. Unless this caution is abided by, the research product would not be very useful with respect to practical purposes. Also, it must be remembered that even within the ambit of "global south", there is a huge diversity and it is difficult to formulate any unified critique in this regard. Also, it is not true that every country belonging in the supposed classification of the global south is underrepresented in the global discourse in this regard such as India and South Africa.

Also, it should be noted that in the quest of achieving universality, we tend to create false generalizations by relying on a very selected sample size and then seek to impose it on a global scale. This can render the whole exercise a failure unless we give due regard to scholarly voices other than a select few legal systems and ensure that not only are the findings universal but also the sample or the case selection criteria is also universal in nature.

We must respect the peculiarities of different legal systems around the world and therefore be especially careful when it comes to case selection while undertaking a comparative exercise, this can be a fruitful solution to address the global south critique. As if we democratically select jurisdictions for study and give more space to scholarship from around the world, the findings of such a study would not only help the arena of constitutionalism at the global level but also on domestic level as well. This shall help us move towards a more accommodating and diverse space for comparative constitutional studies.

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 [ISSN 2581-5369]