

## **National Governance in a Global Society**

*By Winston P. Nagan and Samantha R. Manausa*

The theme of national governance in a global society has a simple designation, but is in fact quite complex. Today, national governance is largely a matter of national constitutional sovereignty. For the last three hundred years, the issue of sovereignty has been controversial in the global sphere, because of the implicit understanding that sovereignty, and therefore national governance, is an absolute matter. Even today, the idea of national constitutional sovereignty is still ideologically contested. Regardless of the importance of national constitutions constraining sovereign absolutism, sovereign absolutism in the twentieth century resulted in the idea of total war, unconstrained by national limits. The disaster of the Second World War occasioned the creation of the war aims of the allies, the Atlantic Charter, and its famous Four Freedoms: freedom of speech and expression, freedom of conscience and belief, freedom from fear, and freedom from want. These principles became the cornerstones of the development of the first recognizable global constitutional system in history: the United Nations Charter. The Charter seeks to moderate state sovereignty, but the scope of state sovereignty, and the scope of international obligation, is still contested. To work on changing the system requires a far better understanding of the national social process, the national process of effective power, and the national constitutional system. Even these matters are highly contested in academic and practical circles.

What these matters require is, in the first instance, intellectual and scientific clarity. This means we need to have a clear map of the national social process (see the Appendix I of this introduction). The most important outcome of the national social process is the process of effective power—we need to map this. The most important outcome of the process of effective power is the national constitutional process. This process also has to be mapped. The importance of mapping is that we are able to identify the operational actors, the problems they require to be solved, the strategies they use to solve them, and the consequences of their interventions. The outcomes of the national constitutional process reflect the emergence of public orders that are connected with the important

value claims of the operative actors in social, power, and constitutional processes.

In our own time, the great challenge is to map the public order incorporated in the 17 UN Goals for Sustainable Development. In what follows, I have abstracted the mapping aspect of these processes from my book, *Contextual-Configurative Jurisprudence*. The national constitutional process must be compared and contrasted with the global governance and constitutional process. The global constitutional process reflects problems when they confront the national sovereignty claims of the states. The central issues in the global constitutional process are how global power is managed. Unfortunately, effective power is limited and constrained to the competence of the Security Council. However, the Security Council cannot act if a single permanent member of the Council exercises the veto. Clearly, there is a need for a reform of the Security Council so that the veto may be less discretionary and more attuned to matters of international concern. For example, you could expand the Security Council and require the concurrence of two or three permanent members before the Council is stopped in its tracks.

Another arena of concern for governance is the competence of the General Assembly. The General Assembly comprises all sovereign states admitted to the UN. To a large extent, they make non-binding resolutions. This limits its efficacy. One early solution to this problem was the so-called Uniting for Peace Resolution. If the Security Council was blocked by a veto, the General Assembly could convene a special session, and by an overwhelming majority vote, could assume some of the competencies of the peace and security of the Council. This is an issue that should be revisited with the possibility that Uniting for Peace may be modified to include Uniting for Action to defend the institutional competency of the entire UN Charter. It will be obvious that modifications of Security Council powers, and the expansion of General Assembly powers, will be ferociously resisted by national sovereigns. The possible solution to this would be to formulate a program whereby populations within national states can be mobilized to modify their internal constitutional arrangements to be more consistent with the vital importance of the global governance role of the UN system.