

CONTENTS

<i>Preface</i>	vii	
Introduction	1	
1 Sovereignty in the context of globalization: a constitutional pluralist approach	21	
1.1 The absolutist conception: organ sovereignty and the impossibility of international law	26	
1.2 The legalist challenge	29	
1.3 Global “constitutional moments”: cosmopolitan monism revived	41	
1.4 Constitutionalist approaches: centered and de-centered	45	
1.5 The legal pluralist alternative	58	
1.6 Constitutional pluralism	66	
1.7 Conclusion	76	
2 Constitutionalism and political form: rethinking federation		80
2.1 Why federate?	87	
2.2 Federation as decentralization	102	
2.3 Federal union as a distinctive political form: the sovereignty-centered approach	115	
2.4 The anti-sovereignty approach: non-state federal unions	136	
2.5 Conclusion	150	
3 International human rights, sovereignty, and global governance: toward a new political conception	159	
3.1 The historical background: an overview	165	
3.2 The traditional conception of human rights	178	
3.3 The political conception of human rights: suspending the sovereignty argument	180	
3.4 The political conception and membership	187	
3.5 Sovereign equality and the right to have rights: rethinking the membership principle	196	
3.6 Toward a new political conception: rethinking enforcement		204
3.7 Conclusion	215	

4	Sovereignty and human rights in “post-conflict” constitution-making: toward a <i>jus post bellum</i> for “interim occupations”	223
4.1	The development of occupation law as a story of humanization	228
4.2	The realist/Schmittian reading of the law of belligerent occupation	238
4.3	Toward a <i>jus post bellum</i> that respects sovereign equality, self-determination, and human rights: rethinking the conservation principle	246
4.4	Conclusion	265
5	Security Council activism in the “war on terror”: legality and legitimacy reconsidered	266
5.1	The enforcement model: opening Pandora’s box	269
5.2	The new security paradigm: the Security Council starts legislating	272
5.3	The usurpation of global constituent power?	278
5.4	The legitimation problem	282
5.5	Excursus on constitution/constitutionalism	284
5.6	The constitutional quality of the UN Charter system	288
5.7	The Kadi case and the conundrum of global governance	291
5.8	Internal and external pluralism: the issue of political form	301
5.9	Conclusion	311
	<i>Conclusion</i>	320
	<i>Notes</i>	327
	<i>Bibliography</i>	404
	<i>Index</i>	428