

MASARYKOVA UNIVERZITA

Constitutionalism

What is Constitutionalism?

Jiří Baroš



- Democracy
- Constitutionalism
- Constitutionalism v. Democracy



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- Constitutionalism v. Democracy



Democracy

- What is Democracy?
- Political Obligation
- Tyranny of majority; factions
- Types of Democracy



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What is Democracy?

- elections
- universal adult suffrage
- not skewed electoral districts
- free entry of citizens to candidacy
- freedom of communication and association
- political privacy
- right to participate in political process



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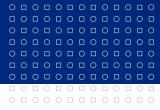
Political Obligation

- why to obey the law?
- people must be its makers
- equal right to participate
- sovereignty v. morality
- value of process



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Tyranny of majority; factions

- tyranny over minorities; public v. special interests
- checks on majorities?
- shifting coalitions of minorities
- shared political culture



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Deliberative Democracy

- reason-giving requirements
- reasons accessible to all citizens
- deliberation decision
- continuing dialogue



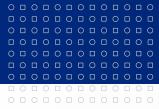
Aggregative Democracy

- majoritarianism
- production of optimal outcomes
- what are preferences?





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- Criticism of Democracy
- Process v. Substance
- Constitutionalist Institutions
- Varieties of Constitutionalism



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Criticism of Democracy

human tendency to act selfishly and abuse power

shortcomings and dangers of democracy



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Process v. Substance

- when is public policy legitimate?
- where to place political confidence?
- value judgement v. skepticism

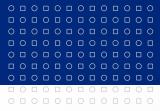


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Constitutionalist Institutions

- division of shared powers
- bicameral structure of legislature
- judicial review and protection of individual rights



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Varieties of Constitutionalism

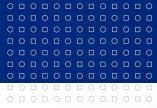
liberal / conservative

libertarian / egalitarian

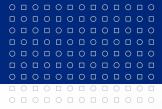
legal / political / democratic



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Constitutionalism v. Democracy

- Continuum: Pure Constitutionalist Pure Representative Democrat
- Constitutionalism facilitates democracy...



Sources

- Blokker, P.: New Democracies in Crisis?
- Gutmann, A., Thompson, D. Why Deliberative Democracy?
- Murphy, W. F. Constitutional Democracy.
- Murphy, W. F., Barber, S. A., Fleming, J. E., Macedo, S. American Constitutional Interpretation