

MASARYKOVA UNIVERZITA

Pluralism and Disagreement

Constitutionalism and Democracy

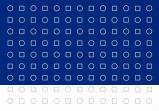
Jiří Baroš



- Constitutionalism
- Varieties of Constitutionalism
- Constitutionalism v. Democracy

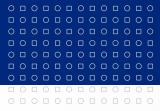


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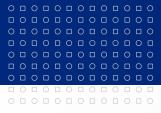


- Criticism of Democracy
- Process v. Substance
- Constitutionalist Institutions





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Criticism of Democracy

human tendency to act selfishly and abuse power

shortcomings and dangers of democracy



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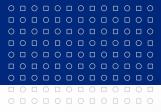




Process v. Substance

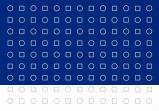
- when is public policy legitimate?
- where to place political confidence?
- value judgement v. skepticism





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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 / populist



Political Constitutionalism

Constitution and Disagreement

Political Equality and Political Debate

Parliamentary Supremacy



Democratic Constitutionalism

Rebalancing Legal and Democratic Dimensions

Radical Democracy

Constitutional Essentials



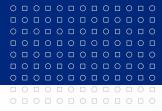
Populist Constitutionalism

- The Popular Will
- Majoritarianism
- Legal Resentment
- Constitutional Instrumentalism



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- 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