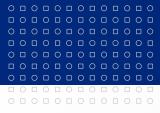


MASARYKOVA UNIVERZITA

Pluralism and Disagreement

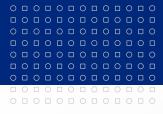
Separation of powers

Jiří Baroš



Constitutionalism and SoP

Four Components of SoP



Constitutionalism and SoP

Four Components of SoP



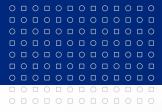


Constitutionalism and SoP

Rechtstaat Component of CD

Two Roles of Institutional Arrangements

Several Positive Justification of SoP



Rechtstaat Component

- Constitutionalism in V4 Countries
- Political Principle of Democracy Changed by the Rechtsstaat Component
- SoP and the Mixed Constitution



Institutional Arrangements

- Enabling and Limiting Roles
- Enhancing Democracy through Constitutional Constraints
- to Strenghten Governent to more easily Achieve Public Purposes

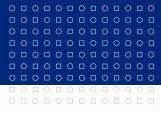


Positive Justification of SoP

Möllers: the Self-determination

Kavanagh: Joint Enterprise of Governing

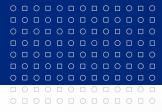
Waldron: Process of Articulated Governance



Constitutionalism and SoP

Four Components of SoP





Constitutionalism and SoP

Four Components of SoP





Four Components of SoP

- Separation of institutions
- Separations of functions
- Personal incompatibility
- The Principle of checks and balances



Four Components and the Pure Doctrine of SoP

- Division of the Government into Three Branches
- to Each Branch a Corresponding Function
- Persons Kept Separate and Distinct



Separation of Institutions

- Dispersion of Power (against Concentration)
- for Full-standing Principle of SoP it is not enough
- Powers are not Allocated on a Random Basis
- Threefold Division of Government



Separation of Functions

- Three Necessary Functions: L, E, J
- All Three Branches Exercise All Three Functions to Some Degree
- The Reconstructed View and The Efficiency Requirement



Personal Incompatibility

- Separation of Persons
- The Pure Doctrine: No Overlapping Membership
- It Is Too Demanding: The Third Component as a General Instruction



Checks and Balances

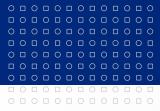
- Pure Doctrine v. Mixed Constitution
- Checks Are Positive (Direct Control Over The Branches)
- Difficulty to Embrace The Separationist Logic of Three Components with the Fourth One.



Constitutionalism and SoP

Four Components of SoP





Constitutionalism and SoP

Four Components of SoP





- Parliament and Government
- Constitutional Review
- Limits of Judicial Control of the Administration





Sources

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