



MASARYKOVA UNIVERZITA

Pluralism and Disagreement

Separation of powers

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Separation of Powers

- Constitutionalism and SoP
- Four Components of SoP
- Current Problems of SoP

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- **Constitutionalism and SoP**
- Four Components of SoP
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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 Strengthen Government to more easily Achieve Public Purposes

Positive Justification of SoP

- Möllers: the Self-determination
- Kavanagh: Joint Enterprise of Governing
- Waldron: Process of Articulated Governance

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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.

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Current Problems of SoP

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

Sources

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