



MASARYKOVA UNIVERZITA

# Pluralism and Disagreement

## Constitutionalism and Democracy

**Jiří Baroš**

# Constitutionalism and Democracy

- Constitutionalism
- Varieties of Constitutionalism
- Constitutionalism v. Democracy

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- **Constitutionalism**
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# Constitutionalism

- 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

# Constitutionalism

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- **Process v. Substance**
- Constitutionalist Institutions

# Process v. Substance

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



# Constitutionalism

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

# 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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# 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