

Constitucionalismo y Democracia

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Clase 1

Constitución, constitucionalismo y democracia

- Gabriel Negretto, “Constitutions”, en *International Encyclopedia of Social Sciences*, Gale, 2007.
- Russell Hardin, “Why a Constitution?” In Bernard Grofman and Donald Wittman (eds.), *The Federalist Papers and the New Institutionalism*. New York: Agathon Press, 1987.
- Weingast, Barry. 1997. “The Political Foundations of Democracy and the Rule of Law.” *American Political Science Review*, 91 (2): 245-263.
- Jon Elster, “Introduction,” en Jon Elster y Rune Slagstad, *Constitutionalism and Democracy*, Cambridge, U.K.: Cambridge University Press, 1988.
- Sheldon Wolin. 1994. “Norm and Form: The Constitutionalizing of Democracy”, en J. Peter Euben, John R. Wallach and Josiah Ober, eds., *Athenian Political Thought and the Reconstruction of American Democracy*. Ithaca: Cornell University Press, pp. 29-58.

Bibliografía recomendada:

- Vernon Vogdanor, “Introduction,” en Vernon Vogdanor, ed., *Constitutions in Democratic Politics*, 1–13. Aldershot, U.K.: Gower Publishing, 1988.
- Josiah Ober and Charles Hedrick, eds. 1996. *Democratia: A Conversation on Democracies, Ancient and Modern*. New Jersey: Princeton University Press.
- M. I. Finley. 1985. *Democracy, Ancient and Modern*. New Brunswick: Rutgers University Press.

Clase 2

El concepto y el problema del poder constituyente

- James Madison, Federalists # 40 y # 49, *The Federalist Papers*
- James Wilson, Remarks at the Pennsylvania Ratifying Convention, in *Collected Works of James Wilson*, Liberty Fund, pp. 178-200.
- Emmanuel J. Sieyès. [1789] 2003. *What is the Third Estate?*, Cap. 5, pp. 133-144.
- Carl Schmitt. 1982. *Teoría de la Constitución*. Madrid: Alianza Editorial, Caps. 17 & 18, pp. 221-245.
- Joel Colon Rios. 2012. *Weak Constitutionalism. Democratic Legitimacy and the Question of Constituent Power*. New York: Routledge, Cap. 3, pp. 34-56.

Bibliografía adicional recomendada

- Hanna Arendt. 1963. *On Revolution*, Cap. 4
- Sheldon Wolin. 1994. “Fugitive Democracy”, en *Constellations*, 1 (1): 11-25.
- Andreas Kalyvas. 2005. “Popular Sovereignty, Democracy, and the Constituent Power”, *Constellations*, pp. 223-244.

Clase 3

Tipos de Cambio Constitucional: reemplazos, enmiendas e interpretación judicial

- Lutz, Donald. 1995. “Toward a Theory of Constitutional Amendment.” En Sanford Levinson, ed., *Responding to Imperfection: The Theory and Practice of Constitutional Amendment*. Princeton: Princeton University Press, pp. 237-274.
- Elkins, Z., Guinsburg, T., and Melton, J. 2009. *The Endurance of National Constitutions*. New York: Cambridge University Press, Chaps. 4 and 5.
- Negretto, Gabriel. “Replacing and Amending Constitutions. The Logic of Constitutional Change in Latin America”, *Law & Society Review*, vol. 46, No. 4, December 2012.

Bibliografía adicional recomendada

- Ackerman, Bruce. *We The People*, vol. 1: Foundations (Cambridge, Mass.: Harvard University Press, 1991), Chap. 1.
- Levinson, Sanford. 1995. “How Many Times Has the United States Constitution Been Amended?.” In Sanford Levinson, ed., *Responding to Imperfection: The*

Theory and Practice of Constitutional Amendment, pp. 13-36.

- Rasch, Bjorn Erik, and Roger D. Congleton. 2006. "Amendment Procedures and Constitutional Stability." In Roger D. Congleton and Birgitta Swedenborg (eds.), *Democratic Constitutional Design and Public Policy. Analysis and Evidence*. Cambridge, Massachusetts: MIT Press, pp. 319-342.
- David A. Strauss, The Irrelevance of Constitutional Amendments, 114 Harv. L. Rev. 1457 (2001).

Clase 4

La elección constitucional

- Buchanan, James & Gordon Tullock. 1962. *The Calculus of Consent*. Ann Arbor: The University of Michigan Press, Cap. 6.
- Geddes, Barbara. 1996. "Initiation of New Democratic Institutions in Eastern Europe and Latin America." En Arend Lijphart and Carlos, Waisman (eds.), *Institutional Design in New Democracies: Eastern Europe and Latin America* (Boulder: Westview Press, 1996).
- Jillson, Calvin, and Cecil Eubanks. 1984. "The Political Structure of Constitution-Making: The Federal Convention of 1787." *American Journal of Political Science*, 28 (3): 435-458.
- Negretto, Gabriel. 2013. "A Two-Level Theory of Constitutional Choice," en *Making Constitutions. Presidents, Parties, and Institutional Choice in Latin America*, Cambridge University Press.

Bibliografía adicional recomendada

- Elster, Jon. "Forces and Mechanisms in Constitution-Making." *Duke Law Review*, 45: 364-96.
- Jillson, Calvin. 1988. *Constitution-Making: Conflict and Consensus in the Federal Convention of 1787*. New York: Agathon Press.
- Lijphart, Arend. 1992. "Democratization and Constitutional Choices in Czechoslovakia, Hungary and Poland 1989-91." *Journal of Theoretical Politics*, 4 (2): 207-223.
- Colomer, Josep. *Strategic Transitions: Game Theory and Democratization* (Baltimore: The John Hopkins University Press, 2001), Chapter 5, pp. 108-123.

Clase 5

Modelos constitucionales y separación de poderes

- Josep Colomer. 2008. “Comparative Constitutions”, en *The Oxford Handbook of Political Institutions*, editado por R.A.W. Rhodes, Sarah Binder, y Bert A. Rockman, pp. 217-238.
- Negretto, Gabriel. 2013. “Constitutional Change and Patterns of Design”, en Negretto, Gabriel, *Making Constitutions*, pp. 17-42.
- Cheibub, Jose Antonio, Zachary Elkins, y Tom Ginsburg, “Still the Land of Presidentialism? Executives and the Latin American Constitution”, en Detlef Nolte and Almut Schilling-Vacaflor, *New Constitutionalism in Latin America: Promises and Practices*. London: Ashgate, 2012, pp. 73-98.