

individuals will remain largely free to live according to their own beliefs about what makes life worth living. Applying this analysis to constitutional design, Galston argues that there is no single constitutional system that is preferable to all others, but that constitutions can nonetheless be judged according to three criteria: realism, coherence, and congruence. A constitution is realistic if it does not put undue burdens on its citizens; it is coherent if the values it embraces are not too diverse to coexist within the same community; and it is congruent if its general outlines correspond to the moral sentiments of the citizens who live under it. Galston concludes with a discussion of how constitutional authority should be exercised in a pluralistic society, arguing that public officials charged with resolving disputes should avoid winner-take-all solutions whenever possible and should strive to accommodate a range of worthwhile ways of life.

In "Deliberative Democracy and Constitutions," James S. Fishkin examines the role deliberation might play in processes of higher law making, either for the founding of a constitution or for amending an existing constitution. Fishkin begins by setting out four principles that are central to the design of democratic institutions. Ideally, all citizens should have the opportunity to participate in political decision-making (i.e., there should be mass participation), and every citizen's voice should have the same weight in determining the outcome (political equality). Moreover, decisions should be made after citizens hear arguments for various positions and have an opportunity to weigh and discuss the merits of different alternatives (deliberation), and the majority should not choose policies that impose severe burdens on the minority (non-tyranny). As Fishkin notes, however, it is difficult to satisfy all of these principles simultaneously. The two processes most commonly used to establish or amend a constitution are elite deliberation (often in the form of a constitutional convention where representatives of the people gather and debate various proposals) and plebiscitary mass democracy (where citizens vote directly on a proposal through a referendum). The former process employs deliberation without mass participation, while the latter emphasizes mass participation without genuine opportunities for public deliberation. A better alternative, Fishkin argues, might be one in which a proposal formulated by a constitutional convention could be debated by citizens in small groups over the course of a day, after which the proposal would be put to a vote. Fishkin describes in detail how such a process might work in practice. He acknowledges that it would be difficult to implement, since it would involve a national holiday and perhaps the compensation of citizens for their participation in deliberations. Nonetheless, he concludes that it would be an effective way to realize the goals of political equality, deliberation, and mass participation.

Guido Pincione argues that a constitution that fosters economic liberty is the best way to protect individuals from being dominated by others. In "The Constitution of Nondomination," Pincione defines domination in terms of arbitrary interference with individuals' freedom of action. The most extreme example of domination would be the institution of slavery, yet domination may also occur when some entity (whether a government, a corporation, or an individual citizen) holds a legal monopoly over some essential resource (e.g., potable water) and is able to set the terms on which the resource may be obtained. Some political theorists argue that state interference with private markets is necessary to prevent this sort of domination, but Pincione contends that the dispersal of market power that comes with economic liberty is a better mechanism for combating domination. Free markets with low barriers to entry into the marketplace encourage competition and result in a plurality of suppliers of goods and services, so that no single supplier has the power to dominate consumers. In the course of his essay, Pincione addresses the idea that governmental regulation is