

MAKING AND CHANGING CONSTITUTIONS

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ABSTRACT

This essay discusses the various ways in which constitutions are made and unmade, and how they derive their legitimacy. The distinction between constitutions and constitutionalism and between constituent and constituted power are discussed.

It argues that a constitution rooted in popular legitimacy and upholding fundamental values serves as the foundation of constitutionalism. It cannot be a product of a majoritarian process but of a consensual process.

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