



Retos del derecho constitucional contemporáneo (Spanish Edition)

Gabriel Mora Restrepo

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Se recogen en este libro estudios académicos y reflexiones críticas propuestas en el marco de una tensión. Por un lado, la importancia de hacer una retrospectiva de lo que ha sido la experiencia constitucional en Colombia y en otros países acerca de lo que muchos denominan el "neoconstitucionalismo", particularmente en cuanto a sus promesas de una mejor sociedad, más justa, equitativa, incluyente, tolerante, democrática, respetuosa del pluralismo e impulsada por un nuevo y principal actor: los jueces constitucionales. Por el otro, la confrontación directa al modelo desde la perspectiva de la razonabilidad práctica, el bien común y la plenitud humana, como criterios desde los cuales resulte posible evaluar el cumplimiento o no de las promesas anunciadas. El libro es especialmente crítico en cuanto a lo primero. El derecho constitucional contemporáneo adolece de serias fisuras y requiere ser revisado, ajustado, reformado, o simplemente abandonado. El neoconstitucionalismo, aunque con importantes aciertos en algunos temas, ha sido incapaz de modelar una sociedad más incluyente o el fortalecimiento de la justicia y la redistribución de la riqueza, porque ha estado imbuido de "pactos" políticos o de presiones externas que imposibilitan, en incontables casos, un desarrollo integral de la persona y de la sociedad en su conjunto. La multiplicación de "derechos", en función de una supuesta mayor inclusión social, ha dado como resultado, en no pocas ocasiones, el "aislamiento" o "menoscabo" de derechos fundamentales, otrora indiscutidos y garantizados como presupuestos del orden constitucional.

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