

# CONSTITUTIONAL CHANGE

## Amending the Constitution

### Proposed

Amendment is proposed by a two-thirds vote of each house of Congress



Amendment is proposed by a national convention called by Congress at the request of two-thirds of the state legislatures



### Ratified

Amendment is ratified by three-fourths of the state legislatures



Amendment is ratified by three-fourths of the state conventions



# Creating Constitutional Change

**Ngoc Son Bui**



## **Creating Constitutional Change:**

Creating Constitutional Change Gregg Ivers, Kevin T. McGuire, 2004 Because the justices of the U S Supreme Court interpret the Constitution their decisions can create constitutional change For quite some time general readers interested in understanding those changes have not had access to a concise volume that explores the major decisions through which those changes occur In order to make a wide range of decisions more comprehensible Gregg Ivers and Kevin T McGuire commissioned twenty four outstanding scholars to write essays on a selected series of Supreme Court cases Chosen for their contemporary relevance most of the cases addressed in this informative reader are from the last half century extending right up through Bush v Gore and the 2003 Michigan affirmative actions cases Unedited summary from paperback cover

*Participatory Constitutional Change* Xenophon Contiades, Alkmene Fotiadou, 2016-10-04 This book explores the recent trend of enhancing the role of the people in constitutional change It traces the reasons underlying this tendency the new ways in which it takes form the possibilities of success and failure of such ventures as well as the risks and benefits it carries To do so it examines the theoretical aspects of public participation in constitutional decision making offers an analysis of the benefits gained and the problems encountered in countries with long standing experience in the practice of constitutional referendums discusses the recent innovative constitution making processes employed in Iceland and Ireland in the post financial crisis context and probes the use of public participation in the EU context New modes of deliberation are juxtaposed to traditional direct democratic processes while the reasons behind this re emergence of public involvement narratives are discussed from the aspect of comparative constitutional design The synthetic chapter offers an overview of the emerging normative and comparative issues and provides a holistic approach of the role of the people in constitutional change in an attempt to answer when where and how this role may be successfully enhanced The work consists of material specifically written for this volume and authored by prominent constitutional scholars and experts in public participation and deliberative processes

Engineering Constitutional Change Xenophōn I. Kontiadēs, 2013 This volume provides a holistic presentation of the reality of constitutional change in 18 countries the 15 old EU member states Canada Switzerland and the USA The essays offer analysis on formal and informal constitutional amendment bringing forth the overall picture of the parallel paths constitutional change follows in correlation to what the constitution means and how constitutional law works To capture the patterns of constitutional change multi faceted parameters are explored such as the interrelations between form of government party system and constitutional amendment the interplay between constitutional change and the system of constitutionality review the role of the people civil society and experts in constitutional change and the influence of international and European law and jurisprudence on constitutional reform and evolution In the extensive final comparative chapter key features of each country s amendment procedures are epitomized and the mechanisms of constitutional change are explained on the basis of introducing five distinct models of constitutional change The concept of constitutional rigidity is

re approached and broken down to a set of factual and institutional rigidities The classification of countries within models in accordance with the way in which operative amending mechanisms connect leads to a succinct portrayal of different modes of constitutional change engineering This book will prove to be an invaluable tool for approaching constitutional revision either for theoretical or for practical purposes and will be of particular interest to students and scholars of constitutional comparative and public law

**Constitutional Change and Constitutionalism in Africa** ,2025-05-16 The new generation of African constitutions crafted in the 1990s marked the beginning of a trend that promised a radical transformation of the continent s governance landscape This movement aimed to eliminate the risks of coups and political instability that had plagued Africa since the 1960s by embedding democracy and constitutionalism However the wave of constitutional reforms post 1990s seems to have sparked a contagious fever of making unmaking and remaking constitutions The nature and frequency of these changes threaten to undermine the progress made in entrenching a culture of constitutionalism good governance and respect for the rule of law It is therefore no surprise that there is almost universal agreement that Africa is now facing a profound crisis of democracy and constitutionalism Constitutional Change and Constitutionalism in Africa examines the nature and extent of these changes which have been occurring more frequently and sometimes more arbitrarily than anticipated Among the main questions investigated are the constitution making process and the roles of various internal actors such as the legislature executive and judiciary as well as external actors like the African Union and Regional Economic Communities in the different processes of constitutional change Ultimately the discussions aim to explore how the processes of constitutional change whether inevitable and unavoidable or contrived can be conducted in a manner that does not undermine or threaten the efforts to entrench democracy constitutionalism good governance and respect for the rule of law on the African continent

**American Indian Constitutional Reform and the Rebuilding of Native Nations** Eric D. Lemont,2009-08-17 Since 1975 when the U S government adopted a policy of self determination for American Indian nations a large number of the 562 federally recognized nations have seized the opportunity to govern themselves and determine their own economic political and cultural futures As a first and crucial step in this process many nations are revising constitutions originally developed by the U S government to create governmental structures more attuned to native people s unique cultural and political values These new constitutions and the governing institutions they create are fostering greater governmental stability and accountability increasing citizen support of government and providing a firmer foundation for economic and political development This book brings together for the first time the writings of tribal reform leaders academics and legal practitioners to offer a comprehensive overview of American Indian nations constitutional reform processes and the rebuilding of native nations The book is organized in three sections The first part investigates the historical cultural economic and political motivations behind American Indian nations recent reform efforts The second part examines the most significant areas of reform including criteria for tribal membership citizenship and the reform of

governmental institutions The book concludes with a discussion of how American Indian nations are navigating the process of reform including overcoming the politics of reform maximizing citizen participation and developing short term and long term programs of civic education      Constitutional Change in the Contemporary Socialist World Ngoc Son Bui,2020 Comparative

constitutional law has a long and distinguished history in intellectual thought and in the construction of public law As political actors and the people who create or modify their constitutional orders they often wish to learn from the experience and learning of others This cross fertilization and mutual interaction has only accelerated with the onset of globalization which has transformed the world into an interconnected web that facilitates dialogue and linkages across international and regional structures Oxford Comparative Constitutionalism seeks to publish scholarship of the highest quality in constitutional law that deepens our knowledge of local national regional and global phenomena through the lens of comparative public law Book jacket      **Constitutional Amendments** Richard Albert,2019 Constitutional Amendments Making Breaking and

Changing Constitutions is both a roadmap for navigating the intellectual universe of constitutional amendments and a blueprint for building and improving the rules of constitutional change This book blends theory with practice to answer two all important questions what is an amendment and how should constitutional designers structure the procedures of constitutional amendment      *Constitutional Change in the UK* Nigel Forman,2003-09-02 The years since New Labour came to power in 1997 have seen changes to the British institutions of political power on an unprecedented scale The reforms have been widespread ranging from devolution of power in Scotland Wales and Northern Ireland to the reform of the House of Lords and the changing role of the Monarchy This book is the first to examine these changes collectively and in detail placing each in its historical context analysing problems solutions and what the future holds for this ambitious period of reforms The book is comprehensive in coverage and accessibly written As such it should be the ideal resource for undergraduate students of British Politics seeking to make sense of this complex subject      *Making Constitutions* Gabriel L. Negretto,2013-06-17

Negretto provides the first systematic explanation of the origins of constitutional designs from an analytical historical and comparative perspective Based on analysis of constitutional change in Latin America from 1900 to 2008 and four detailed case studies Negretto shows the main determinants of constitutional choice are the past performance of constitutions in providing effective and legitimate instruments of government and the strategic interests of the actors who have influence over institutional selection The book explains how governance problems shape the general guidelines for reform while strategic calculations and power resources affect the selection of specific alternatives of design It emphasizes the importance of events that trigger reform and the designers level of electoral uncertainty for understanding the relative impact of short term partisan interests on constitution writing Negretto s study challenges predominant theories of institutional choice and paves the way for the development of a new research agenda on institutional change      **Constitutional Amendment**

**Making War Legally Impossible** United States. Congress. Senate. Committee on the Judiciary,1930      **Unconstitutional**

**Constitutional Amendments** Yaniv Roznai, 2017 Can constitutional amendments be unconstitutional Using theoretical and comparative approaches Roznai establishes the nature and scope of constitutional amendment powers by focusing on substantive limitations looking at their prevalence in practice and the conceptual coherence of the very idea of limitations to constitutional amendment powers Constitution Makers on Constitution Making Tom Ginsburg, Sumit Bisarya, 2022-11-17 Constitution making is a major event in the life of a country with constitutions often acting as a catalyst for social and political transformation But what determines the visions aspirations and compromises that go into a written constitution In this unique volume constitution makers from countries around the world come together to offer their insights Using a collection of case studies from countries with recently written constitutions Constitution Makers on Constitution Making provides a common framework to explain how constitutions are created Scholars and practitioners very close to the process illuminate critical insights into how participants see constitutional options how deadlocks are broken and how changes are achieved This vital volume also draws lessons concerning the role of courts in policing the process on international involvement and on public participation **Constitutional Change and Transformation in Latin America** Richard Albert, Carlos Bernal Pulido, Carlos Bernal, Julian Zaiden Benvindo, 2019-07-25 Over the past 30 years Latin America has lived through an intense period of constitutional change Some reforms have been limited in their design and impact while others have been far reaching transformations to basic structural features and fundamental rights Scholars interested in the law and politics of constitutional change in Latin America are turning increasingly to comparative methodologies to expose the nature and scope of these changes to uncover the motivations of political actors to theorise how better to execute the procedures of constitutional reform and to assess whether there should be any limitations on the power of constitutional amendment In this collection leading and emerging voices in Latin American constitutionalism explore the complexity of the vast topography of constitutional developments experiments and perspectives in the region This volume offers a deep understanding of modern constitutional change in Latin America and evaluates its implications for constitutionalism democracy human rights and the rule of law **Constitutional Reform in the United Kingdom** University of Cambridge. Centre for Public Law, Clifford Chance (Firm), 1998-03-19 Papers presented at the inaugural conference of the Cambridge Centre for Public Law on 17 and 18 January 1998 Intro Routledge Handbook of Comparative Constitutional Change Xenophon Contiades, Alkmene Fotiadou, 2020-06-11 Comparative constitutional change has recently emerged as a distinct field in the study of constitutional law It is the study of the way constitutions change through formal and informal mechanisms including amendment replacement total and partial revision adaptation interpretation disuse and revolution The shift of focus from constitution making to constitutional change makes sense since amendment power is the means used to refurbish constitutions in established democracies enhance their adaptation capacity and boost their efficacy Adversely constitutional change is also the basic apparatus used to orchestrate constitutional backslide as the erosion of liberal

democracies and democratic regression is increasingly affected through legal channels of constitutional change Routledge Handbook of Comparative Constitutional Change provides a comprehensive reference tool for all those working in the field and a thorough landscape of all theoretical and practical aspects of the topic Coherence from this aspect does not suggest a common view as the chapters address different topics but reinforces the establishment of comparative constitutional change as a distinct field The book brings together the most respected scholars working in the field and presents a genuine contribution to comparative constitutional studies comparative public law political science and constitutional history

**Comparative Constitution Making** David Landau,Hanna Lerner,2019 Recent years have witnessed an explosion of new research on constitution making Comparative Constitution Making provides an up to date overview of this rapidly expanding field p p1 margin 0 0px 0 0px 0 0px 0 0px font 10 0px Arial

*Constitutional Origin and Norm Creation in Colombia* Jan Boesten,2022-04-27 This book explains the growing empowerment of the Colombian Constitutional Court in the early years of the 21st century and develops the concept of the deliberative judge Taking the case of the Colombian Constitutional Court and drawing on neoinstitutional theory to explain the relationship between political crisis and institutional reforms the book challenges the notion of rational choice institutionalism that agents act strategically It indicates the limits of path dependence and argues instead that discursive institutionalism is the most appropriate method for analyzing processes of institutional learning Combining theoretical and empirical research it builds the argument that judicial independence promotes the case for deliberative democracy over rational choice or strategic action approaches Finally the book suggests that by introducing communicative and cognitive variables in our understanding of key actors and processes we are more capable of bridging institutional origin and legacy The work will be a valuable resource for academics researchers and policy makers in Constitutional Law Constitutional Politics and Constitutional History

**Constitutional Reform and Brexit** Gary Wilson,2023-06-30 This book examines the extent to which Brexit has impacted upon the operation of the British Constitution prompting in turn consideration of how some of the factors which contributed to the outcome of the 2016 referendum as well as the event of Brexit itself might inform debates surrounding constitutional reform moving forward The work seeks to make sense of the constitutional implications of Brexit and to revisit some of the key debates that have taken place in respect of particular constitutional reform proposals in order to assess the extent to which recent Brexit related developments inform the perspectives which are taken upon their merits and prospects The book is divided into two parts The first provides some context for the substantive treatment of the potential impact of Brexit on constitutional reform debates which forms the focus of Part II Part II centres on various specific constitutional reform themes or issues which are explored further within the context of Brexit For each such issue the main parameters of the debates which have taken place are sketched out before moving on to consider how it has informed or may come to be informed by the phenomenon of Brexit By so doing it looks to some future directions for constitutional reform which take account of the factors driving the discourses which gave rise to

the referendum outcome and subsequent developments as well as offering meaningful responses to these The book will be of interest to academics researchers and policy makers working in the areas of constitutional law constitutional politics philosophy and history Constitutional Reform in Britain and France Elizabeth Gibson-Morgan, 2017-09-15 Any attempt at comparing contemporary change in the UK and France is a bold one since it means discussing two very different countries with strong distinctive constitutional identities This book places its emphasis on the shared historical political and cultural background of the UK and France before focusing on the sweeping transformation of their constitutional frameworks in the past quarter of a century at a national and regional level with a particular emphasis on Wales and Scotland which culminated in the June 2016 referendum on Britain's EU membership Instead of examining each country separately however as is traditional this study breaks new ground by explaining the pattern of institutional development in Britain and France from a comparative Franco British perspective It explores the complexities of recent constitutional change in both countries in an original and comprehensive way and gives both British and French readers a deeper understanding of the two countries that have some much in common even though Brexit could drive them apart *The Foundations and Traditions of Constitutional Amendment* Richard Albert, Xenophon Contiades, Alkmene Fotiadou, 2017-07-13 There is growing interest in constitutional amendment from a comparative perspective Comparative constitutional amendment is the study of how constitutions change through formal and informal means including alteration revision evolution interpretation replacement and revolution The field invites scholars to draw insights about constitutional change across borders and cultures to uncover the motivations behind constitutional change to theorise best practices and to identify the theoretical underpinnings of constitutional change This volume is designed to guide the emergence of comparative constitutional amendment as a distinct field of study in public law Much of the recent scholarship in the field has been written by the scholars assembled in this volume This book like the field it hopes to shape is not comparative alone it is also doctrinal historical and theoretical and therefore offers a multiplicity of perspectives on a subject about which much remains to be written This book aspires to be the first to address comprehensively the new dimensions of the study of constitutional amendment and will become a reference point for all scholars working on the subject The volume covers all of the topics where innovative work is being done such as the notion of the people the trend of empirical quantitative approaches to constitutional change unamendability sunrise clauses constitutional referenda the conventional divide between constituent and constituted powers among other important subjects It creates a dialogue that cuts through these innovative conceptualisations and highlights scholarly disagreement and in so doing puts ideas to the test The volume therefore captures the fierce ongoing debates on the relevant topics it reveals the current trends and contested issues and it offers a variety of arguments elaborated by prominent experts in the field It will open the way for further dialogue



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