

BASIC STRUCTURE AND CONSTITUTIONAL AMENDMENTS

Limitations and Justiciability



A. LAKSHMINATH

Basic Structure And Constitutional Amendments Limitations And Justiciability

Mariana Velasco-Rivera



Basic Structure And Constitutional Amendments Limitations And Justiciability:

Basic Structure and Constitutional Amendments A. Lakshminath, 2002 With special reference to India *The Limits of Constitutional Democracy* Jeffrey K. Tulis, Stephen Macedo, 2010-10-18 Constitutional democracy is at once a flourishing idea filled with optimism and promise and an enterprise fraught with limitations Uncovering the reasons for this ambivalence this book looks at the difficulties of constitutional democracy and reexamines fundamental questions What is constitutional democracy When does it succeed or fail Can constitutional democracies conduct war Can they preserve their values and institutions while addressing new forms of global interdependence The authors gathered here interrogate constitutional democracy's meaning in order to illuminate its future The book examines key themes the issues of constitutional failure the problem of emergency power and whether constitutions should be suspended when emergencies arise the dilemmas faced when constitutions provide and restrict executive power during wartime and whether constitutions can adapt to such globalization challenges as immigration religious resurgence and nuclear arms proliferation In addition to the editors the contributors are Sotirios Barber Joseph Bessette Mark Brandon Daniel Deudney Christopher Eisgruber James Fleming William Harris II Ran Hirschl Gary Jacobsohn Benjamin Kleinerman Jan Werner Müller Kim Scheppele Rogers Smith Adrian Vermeule and Mariah Zeisberg **The Limits of Constitutional Democracy** Jeffrey K. Tulis, 2010-11-14 Constitutional democracy is at once a flourishing idea filled with optimism and promise and an enterprise fraught with limitations Uncovering the reasons for this ambivalence this book looks at the difficulties of constitutional democracy and reexamines fundamental questions What is constitutional democracy When does it succeed or fail Can constitutional democracies conduct war Can they preserve their values and institutions while addressing new forms of global interdependence The authors gathered here interrogate constitutional democracy's meaning in order to illuminate its future The book examines key themes the issues of constitutional failure the problem of emergency power and whether constitutions should be suspended when emergencies arise the dilemmas faced when constitutions provide and restrict executive power during wartime and whether constitutions can adapt to such globalization challenges as immigration religious resurgence and nuclear arms proliferation In addition to the editors the contributors are Sotirios Barber Joseph Bessette Mark Brandon Daniel Deudney Christopher Eisgruber James Fleming William Harris II Ran Hirschl Gary Jacobsohn Benjamin Kleinerman Jan Werner Müller Kim Scheppele Rogers Smith Adrian Vermeule and Mariah Zeisberg **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 *Constitutional Identity and Constitutionalism in Africa* Charles M. Fombad, Nico Steytler, 2024-01-23 In its modern history Africa has experienced different waves of constitutional ordering The latest

democratisation wave which began in the 1990s has set the stage over the past decade for what is now a hotly debated issue do recent new or fundamentally revised constitutions truly reflect an African constitutional identity Thoughtfully navigating a contested field this volume brings to the fore a number of foundational questions about African constitutionalism Constitutional Identity and Constitutionalism in Africa asks whether the concept of constitutional identity clarifies our understanding of constitutional change in Africa including an exploration of the relationship between constitutional identity and a country's unique culture's and histories Building on this contributions examine the persistent role of colonial heritages in shaping constitutional identity in post Independence African nations and the question of path dependency Given the enduring influence of the colonial experience the volume asks how why and to what end African constitutions must be decolonised to form an authentic constitutional identity This theoretical insight is supplemented and further deepened by detailed case studies of South Africa Ethiopia Cape Verde Cameroon and Egypt and their diverse experience of constitutional continuity and change This volume in the Stellenbosch Handbooks in African Constitutional Law series brings together contributions from established scholars and emerging voices on the study of constitutional processes They provide an urgent critical analysis of existing paradigms concepts and normative ideologies of modern African constitutionalism in the context of constitutional identity

European Yearbook of Constitutional Law 2021 Jurgen de Poorter, Gerhard van der Schyff, Maarten Stremmer, Maartje De Visser, 2022-06-06 The European Yearbook of Constitutional Law EYCL is an annual publication devoted to the study of constitutional law It aims to provide a forum for in depth analysis and discussion of new developments in the field both in Europe and beyond This third volume of the EYCL focuses on constitutional advice an underexplored topic of legal scholarship today and addresses this situation by looking beyond constitutional law's familiar focus on the classic separation of powers and the main legislative executive and judicial bodies implied by this construct The attention is shifted to mapping and analysing the advisory bodies and functions grouped around and in support of the legislators administrators and judges at the frontline of the constitutional edifice which is accomplished through national comparative and transnational perspectives on constitutional advice from Europe and beyond Addressing the topic of constitutional advice is necessary to broaden and deepen not only our understanding of advice as a field in its own right but also as a way of rendering a fuller account of contemporary constitutionalism Also the increasing political polarisation across many societies today underscores the need to study constitutional advice on topics of significance in an attempt to bridge divides and end gridlock This book will be of special interest to constitutional scholars and legal scholars more generally as well as to political scientists In addition government officials judges and policy makers wishing to better understand the legal mechanisms and avenues when it comes to rendering or receiving advice in the contemporary constitutional context will find much of relevance Jurgen de Poorter is professor at Tilburg Law School Department of Public Law and Governance Gerhard van der Schyff is associate professor at Tilburg Law School Department of Public Law and Governance Maarten Stremmer is

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Judicial Activism in Bangladesh Ridwanul Hoque, 2011-01-18 This book critically examines the evolving global trend of judicial activism with particular reference to Bangladesh It constructs judicial activism as a golden mean adjudicative technology standing between excessive judicial assertion and unacceptable judicial passivity that may leave injustices unredressed It argues that judicial balancing between over activism and meek administration of justice should essentially be predicated upon domestic conditions and the needs and fundamental public values of the judges respective society Providing cross jurisdictional empirical evidence the study demonstrates that judicial activism steered towards improving justice and grounded in one societal specificities can be exercised in a morally and legally legitimate form and without rupturing the balance of powers among the state organs This study has sought to displace the myth of judicial activism as constitutional transgression by unelected judges arguing that judicial activism is quite different from excessivism It is argued and shown that a particular judge or judiciary turns out to be activist when other public functionaries avoid or breach their constitutional responsibilities and thus generate injustice and inequality The study treats judicial activism as the conscientious exposition of constitutional norms and enforcement of public duties of those in positions of power The study assesses whether Bangladeshi judges have been striking the correct balance between over activism and injudicious passivity Broadly the present book reveals judicial under activism in Bangladesh and offers insights into causes for this It is argued that the existing milieu of socio political injustices and over balance of constitutional powers in Bangladesh calls for increased judicial intervention and guidance of course in a balanced and pragmatic manner which is critical for good governance and social justice Writing about judicial activism easily gets shackled by fussy and pedestrian debates about what judges may or may not do as unelected agents of governance The book goes much beyond such reductionist pedestrianisation of law for it courageously lifts the debate into the skies of global legal realism The analysis perceptively addresses bottlenecks of justice identifying shackles and mental blocks in our own minds against activating concerns for justice for the common citizen Prof Werner Menski Foreword

Journal of Constitutional and Parliamentary Studies, 2018

Democracy and Constitutionalism in India Sudhir Krishnaswamy, 2010-11-03 The basic structure doctrine articulated by the Indian Supreme Court in 1973 made it amply clear that the basic features of the Constitution must remain inviolable The doctrine has generated serious debates ever since as it placed substantive and procedural limits on the amending powers of the Executive Despite the lack of clarity as to its nature the scope of the doctrine has been broadened in recent years and a wide range of state actions are covered in its purview In this book Krishnaswamy analyses its legitimacy in legal moral and sociological terms and argues that the doctrine has emerged from a valid interpretation of the constitutional provisions This book will be of interest to scholars of Indian Constitutional law political theory and jurisprudence as well as judges and legal practitioners

Civil & Military Law

Journal ,2003 *The Politics of Constitutional Rigidity* Mariana Velasco-Rivera,2025-05-31 What makes a constitution difficult to amend Many assume it s the stringency of the amendment rules as seen with the U S Constitution However Mexico with similar rules has one of the most amended constitutions globally So if it s not the stringency of the rules what is it *The Politics of Constitutional Rigidity Unveiling Pathways to Change in Mexico* focuses on Mexico as a case study to explore the non institutional factors that influence the relative ease of amendment to its constitution This book proposes a new analytical framework for understanding constitutional change suggesting that both formal and informal changes occur within an economy of change This framework highlights how the interplay of political parties party systems constitutional culture and key political actors decisions influence political entrenchment Timely and original *The Politics of Constitutional Rigidity* offers a systematic study of constitutional change and challenges dominant approaches to constitutional rigidity

Constitutional Amendments Seeking to Balance the Budget and Limit Federal Spending United States. Congress. House. Committee on the Judiciary. Subcommittee on Monopolies and Commercial Law,1983 **An Unamendable Constitution?** Richard Albert,Bertil Emrah Oder,2018-09-03 This book examines the subject of constitutional unamendability from comparative doctrinal empirical historical political and theoretical perspectives It explores and evaluates the legitimacy of unamendability in the various forms that exist in constitutional democracies Modern constitutionalism has given rise to a paradox can a constitutional amendment be unconstitutional Today it is normatively contested but descriptively undeniable that a constitutional amendment one that respects the formal procedures of textual alteration laid down in the constitutional text may be invalidated for violating either a written or unwritten constitutional norm This phenomenon of an unconstitutional constitutional amendment traces its political foundations to France and the United States its doctrinal origins to Germany and it has migrated in some form to all corners of the democratic world One can trace this paradox to the concept of constitutional unamendability Constitutional unamendability can be understood as a formally entrenched provision s or an informally entrenched norm that prohibits an alteration or violation of that provision or norm An unamendable constitutional provision is impervious to formal amendment even with supermajority or even unanimous agreement from the political actors whose consent is required to alter the constitutional text Whether or not it is enforced and also by whom this prohibition raises fundamental questions implicating sovereignty legitimacy democracy and the rule of law **Global Crises and the Crisis of Global Leadership** Stephen Gill,2011-10-20 This groundbreaking collection on global leadership features innovative and critical perspectives by scholars from international relations political economy medicine law and philosophy from North and South The book s novel theorization of global leadership is situated historically within the classics of modern political theory and sociology relating it to the crisis of global capitalism today Contributors reflect on the multiple political economic social ecological and ethical crises that constitute our current global predicament The book suggests that there is an overarching condition of global organic crisis which shapes the political and

organizational responses of the dominant global leadership and of various subaltern forces Contributors argue that to meaningfully address the challenges of the global crisis will require far more effective inclusive and legitimate forms of global leadership and global governance than have characterized the neoliberal era Constitutional Revolution Gary Jeffrey Jacobsohn, Yaniv Roznai, 2020-05-19 Few terms in political theory are as overused and yet as undertheorized as constitutional revolution In this book Gary Jacobsohn and Yaniv Roznai argue that the most widely accepted accounts of constitutional transformation such as those found in the work of Hans Kelsen Hannah Arendt and Bruce Ackerman fail adequately to explain radical change For example a constitutional moment may or may not accompany the onset of a constitutional revolution The consolidation of revolutionary aspirations may take place over an extended period The moment may have been under way for decades or there may be no such moment at all On the other hand seemingly radical breaks in a constitutional regime actually may bring very little change in constitutional practice and identity Constructing a clarifying lens for comprehending the many ways in which constitutional revolutions occur the authors seek to capture the essence of what happens when constitutional paradigms change **Indian National Bibliography** B. S. Kesavan, 2002-02

Reformas Constitucionales Inconstitucionales: Los límites al poder de reforma Yaniv Roznai, 2021-02-17 Reformas constitucionales inconstitucionales los límites al poder de reforma ofrecen un análisis completo y profundo de la doctrina de las reformas constitucionales inconstitucionales así como de su rol cada vez más preponderante en el derecho constitucional contemporáneo El texto propone un marco teórico rico para entender el fenómeno de la irreformabilidad constitucional y su exigibilidad judicial Así mismo presenta una mirada global al problema de las reformas inconstitucionales desde una dimensión jurisprudencial y teórica que se apoya en un amplio elenco de ejemplos de todos los continentes El libro también compila y examina una lista original de disposiciones irreformables que han existido o aún existen en las constituciones nacionales del mundo **Indian Books in Print**, 2003 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

Soberanía y derecho convencional, entre poder de reforma y jueces Domingo Garcia Belaunde, 2023-12-06 El constitucionalismo latinoamericano permeado por los arquetipos del civil law respecto al modo de comprender el Derecho y de influencias estadounidenses por lo que concierne al Derecho p blico ha tenido que ver con los modos diversos de concebir el Derecho pero solo en tiempos recientes parece haberse redescubierto tambi n mediante codificaciones constitucionales compar ndose con estructuras aut ctonas Qu misi n es asignada a la comparaci n jur dica en el derecho constitucional En el plano epistemol gico su tarea es proporcionar conocimiento en tanto que el Derecho estatal no agota el hecho de la fenomenolog a jur dica El Derecho no es solo derecho estatal y el resurgimiento del derecho ind gena y en general de la tradici n lo atestigua muy bien No obstante tambi n dentro de la concepci n occidental del Derecho no cuenta solo la f rmula legislativa sino m s cuenta su interpretaci n y cuenta adem s las bases doctrinales que sostienen ya sea la legislaci n como la jurisprudencia Las cortes constitucionales verdaderos modernos se ores del Derecho tienen en cuenta los principios y valores no solo internos positivos sino tambi n circulantes fuera como el formato implicado y los usan para reforzar sus propios razonamientos y sus decisiones imperativas Sobre el plano sustancial la doctrina tiene el deber positivo de aceptar el Derecho por lo que es y lo que se vive imponi ndose por el hecho de serlo de discutir positivamente las meta reglas sobre su producci n y sobre su respeto pero sin la ingenua e imperialista pretensi n que estas valen y se encuentran respetadas fuera de las regiones jur dicas culturales donde act a el estudioso de aceptar que el Derecho no es solo el verbo del legislador lo que seg n Julius Hermann von Kirckman destruye bibliotecas jur dicas enteras sino tambi n su interpretaci n y las praxis y los usos y las tradiciones jur dicas

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