STRUCTURE AND CONSTITUTIONAL AMENDMENTS

Limitations and Justiciability



A. LAKSHMINATH

Mariana Velasco-Rivera

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 M ller Kim Scheppele Rogers Smith Adrian The Limits of Constitutional Democracy Jeffrey K. Tulis, 2010-11-14 Constitutional Vermeule and Mariah Zeisberg 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 M ller 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 **Democracy and Constitutionalism in India** Sudhir Krishnaswamy, 2010-11-03 The basic strucure 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 Execuive 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 **European Yearbook of Constitutional Law 2021** Jurgen de Poorter, Gerhard van der Schyff, Maarten Stremler, 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 Stremler is assistant professor at Maastricht University Faculty of Law Department of Public Law Maartje De Visser is associate professor at Yong Pung How School of Law Singapore Management University Singapore

<u>Judicial Activism in Bangladesh</u> 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 un redressed 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's 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 guite 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 activising concerns for justice for the common citizen Prof Werner Menski Foreword Journal of Constitutional and Parliamentary Studies, 2018 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

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