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1. **Unconstitutional Constitutional Amendments [article]**
Israel Law Review, Vol. 44, Issue 3 (2011), pp. 321-342
 Barak, Aharon (Cited 252 times)
 44 Isr. L. Rev. 321 (2011)
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...." " See KEMAL **GOZLER**, JUDICIAL REVIEW OF CONSTITUTIONAL AMENDMENTS: A COMPARATIVE STUDY 23-24 (2008). 322 [Vol. 44: 321 #12;

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authorities. In its decision of October 12, 1976," the Constitutional Court determined that the amendment was not constitutional, 12 Decision of June 16, 1970, No. 1970/31, 8 AMKD 313 (1970), referred to by **GOZLER**, supra note 11, at 40. 13 Decision of Apr. 3, 1971, No. 1971/37, 9 AMKD 416 (1971). **GOZLER**, supra note 11, at 97 quotes the judgment (at 428-29), according to which the constitutional amendment must fulfill the "requirements of contemporary civilization" and must not violate "the coherence and system of the constitution." 14 See **GOZLER**, supra note 11, at 96. 15 TURKISH CONST., 1961, as... amended in 1971, art. 147. 16 Decision of Apr. 15, 1975, No. 1975/87, 13 AMKD 403 (1975), referred to in **GOZLER**, supra note 11, at 42. 17 Decision of Oct. 12, 1976, No. 1976/46, 14 AMKD 134-36 (1976), referred to in **GOZLER**, supra note 11, at 43. 323 #12;

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amending, inter alia, article 42 of the Constitution, which deals with rights and duties regarding education. The amendment added a provision to the Constitution, according to which: "No one can be deprived of the right to higher education due to any reason not explicitly written in the law. Limitations on the exercise of this right shall be determined by the law." 18 Decision of Jan. 28, 1977, No. 1977/4, 15 AMKD 106-31 (1977), referred to in **GOZLER**, supra note 11, at 44. 19 Ergun Ozbudun, Judicial Review of Constitutional Amendments in Turkey, 15 EUR. PUB. L. 533 (2009). 20 Decision of June 8, 1987

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FEDERAL REPUBLIC OF GERMANY 48 (2d ed. 1997); 30 ENTSCHEIDUNGEN DES BUNDESVERFASSUNGS-GERICHTS (BVERFGE) [DECISIONS OF THE FEDERAL CONSTITUTIONAL COURT] 1 (1970) (Klass case). 41 The source of these provisions is in article 79(3) of the Constitution, which states: "Amendments to this Basic Law affecting the division of the Federation into Lander, their participation on principle in the legislative process, or the principles laid down in Articles 1 and 20 shall be inadmissible." 42 For analysis of this case, see **GOZLER**, supra note 11, at 56. 43 On certain occasions, dissenting opinions have

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wrote:0 Article V ... grants power over the amending of the Constitution to Congress alone.... The process itself is political in its entirety, from 45 U.S. CONST., art. I, § 3. 46 See U.S. CONST., art. V: "... no Amendment which may be made prior to the Year One thousand eight hundred and eight shall be in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article...." 47 See **GOZLER**, supra note 11, at 28. 48 See *State of Rhode Island v. Palmer*, 253 U.S. 350 (1920); *Dillon v. Gloss*, 256 U.S. 368 (1921); *United States v. Sprague*, 282 U.S. 716 (1931); *Leser v. Garnett*

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); Jeff Rosen, *Was the Flag Burning Amendment Unconstitutional?*, 100 YALE L.J. 1073 (1990-1991); Raymond Ku, *Consensus of the Governed: The Legitimacy of Constitutional Change*, 64 FORDHAM L. REV. 535 (1995-1996); Jason Mazzone, *Unamendments*, 90 IOWA L. REV. 1747 (2004-2005). 52 See IR. CONST., 1997, art. 46. 53 See O'Connell, supra note 24, at 61. 54 Luciano Maia, *The Creation and Amendment Process in the Brazilian Constitution*, in THE CREATION AND AMENDMENT OF CONSTITUTIONAL NORMS 54, 9

(Mads Andenas ed., 2000). ss Id. 56 See **GOZLER**, supra note 11, at 47. 331 #12;

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not always.⁶⁰ As we have seen, the U.S. Supreme Court denied itself this authority, defining it as a political question.⁶¹ 57 See CONSTITUCI6N POLITICA DE LA REPOJBLICA DE CHILE [CONSTITUTION], 1980, art. 82 (2) (Chile). 58 See **GOZLER**, supra note 11, at 5. 59 S. AFR. CONST., art. 167(4)(d). See also Albie Sachs, South Africa's Unconstitutional Constitution: The Transition From Power to Lawful Power, 41 ST. LOUIS U. L.J. 1249 (1996-1997). 60 See *State v. Lennon*, [1935] 1 I.R. 170, 198 (Ir.); *Abortion Information*, [1995] 2 I.L.R.M. 81 (Ir.); *Riordan v. An Taoiseach*, [1999] I.E.S.C. 1 (Ir.). 61

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Cited by 11 Articles
Accessed 55 Times

2. **The Scope and Limitation of the Amending Power in Ethiopia: Thinking beyond Literalism [article]**
Mekelle University Law Journal, Vol. 4, pp. 1-33
Eshetu, Zelalem
4 Mekelle U. L.J. 1 (2016)
All Matching Text Pages (8)

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amendments proposed either through Congress or conventions has to be ratified by three -fourths of the states.¹⁴ These procedures are mandatory requirements that must be observed on the process of constitutional amendments and in order to be valid, an amendment 9 Richard Albert, Non-constitutional Amendments, *Canadian Journal of Law and Jurisprudence*, Vol. XXII, No. 1 (January 2009), pp. 13-14 10 Kemal **Gozler**, *Judicial Review of Constitutional Amendments; A Comparative Study* (2008), pp. 27-28 11 Albert, supra note 9 12 Art. 79 of the German Basic Law 13 Art. V of the US Constitution 14 *Ibid* Vol. 4

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an essential variable in this regard. The strong party discipline and a widespread culture of coalition among political parties may render a super-majority requirement to be 15 **Gozler**, supra note 10, pp. 27-28; George D Skinner, *Intrinsic Limitations on the Power of Constitutional Amendment*, *Michigan Law Review*, Vol. 18 (1999-1920), p. 214 16 Art.79 of the German Basic Law and Art. V of the US Constitution 17 Skinner, supra note IS, P. 214 " *Ibid*, p. 214 19 Aharon Barak, *Unconstitutional Constitutional Amendments*, *Israel Law Review*, Vol. 44 (2011), p. 434 20 Landau, supra note 7, pp. 210-213

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nature of these restrictions on the power varies across countries depending on the level of development, the complexity and the heterogeneous

characters of the society, the number and nature of the major communities, the history, the size and population of the country.² 22 Ibid 23 Barak, supra note 19, p. 434 24 Ibid 25 Landau, supra note 7, p. 192 26 Aid 27 **Gozler**, supra note 10, p. 55 2' Ashok Dhamija, Need to Amend a Constitution and Doctrine of Basic Features (revised 1' ed., 2007), pp. 290-296. More on the nature and the contents of unamendable provisions, Vol. 4 June 2016 #12;

Turn to page 10

limitation. He argues based on the concept of inner unity, identity, or sprit of a constitution and notes that every constitution has its own identity and sprit.⁶ He further claims that as an amendment assumes the continued existence of a constitution so that the amending power may not ruin the inner " Dhamija, supra note 28, pp. 252-283; Roznai, supra note 28, p. 8 According to the studies conducted by Yaniv Roznai and Ashok Dhamija, around 70% of the constitutions have no express substantive limitations. 52 **Gozler**, supra note 10, pp. 76-77 53 Sudhir Krishanaswamy, Democracy and Constitutionalism in

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discussions. It goes beyond the theoretical discourse and has some practical endorsement through different court decisions. The Indian Supreme Court, for instance, affirmed the assertion of implied limitations in *Minerva Mills Ltd v Union of India*.⁶⁹ In this seminal case, the Court held that there are 61 Ibid 66 Skinner, supra note IS, P. 214 67 **Gozler**, supra note 10 , p. 72 6' Dhamija, supra note 28, P 331-332, 433. The exhaustive list of all the basic features of the Constitution have not been provided by the judiciary. However, the supremacy of the Constitution, the rule of law, the principle of

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Sc 1213, Supreme Court Advocates- on-record Association v Union of India (1993) 4SCC 441: AIR 1994 SC268, Pudyal v Union of India (1994) SUPP 1SCC 324, and Kihoto Hollohan v Zachillhu AIR 1993 SC 412: 1992 SUPP(2) SCC651. (See Dhamija, supra note 28, pp. 336-340 and **Gozler**, supra note 10, pp. 88 -89) 70 Dhamija, supra note 28, pp. 330,340,341-360 71 Ibid 72 **Gozler**, supra note 10, p. 84 73 Ibid, pp. 78-80. National Prohibition Case, 235U.S. 350 (1920) In this case it was argued that the substance of the 18th amendment is contrary to the Constitution. The argument is based on the assertion that

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decentralization 76 Ibid 77 Ibid; Dhamija, supra note 28, pp. 340-360. On this point, Kemal **Gozler** also identified certain limitations on the doctrine. See **Gozler**, supra note 10, pp. 66-74 71 Ibid 79 CUD Manifesto, available at: [hap: www. Kestedamena. Org](http://www.Kestedamena.Org) . (last visited on Sep. 19, 2012); See also Tegaye Regassa, The Making and Legitimacy of the Ethiopian Constitution: Towards Bridging the Gap Between Constitutional Design and Constitutional Practice , Afrika Focuse, Vol. 23, No. 1 (2010) pp. 85-118 o Ibid " Leonardo R. Arriola, Ethnicity, Economic Conditions, and Opposition Supports: Evidence From

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preambles as a tool in constitutional interpretation is commonly invoked in Ukraine and Germany as well.^{1'ç} The Preamble of the FDRE Constitution that embodies in a solemn form the ideas and aspirations of the Nations, Nationalities, and Peoples has such an interpretive role to determine the scope of the amending power. Accordingly, the power must be construed in the light

147 **Gozler**, supra note 10, p. 69; Barak, supra note 19, p. 337 148 Liav Orgad, The Preamble in Constitutional Interpretation, International Journal of Constitutional Law, Vol. 8, No. 4, I-CON Vol. 8 No. 4 (2010), p. 175 149 Ibid "0

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3. **New Set of Negotiations in the Cyprus Problem: Federation for a Stable Democracy [article]**
Ankara Bar Review , Vol. 3, Issue 1 (January 2010), pp. 35-42
Erhuman, Tufan
3 Ankara B. Rev. 35 (2010)
All Matching Text Pages (1)

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that all "constituent states" have their own constitutions, legislative, executive and judicial organs and powers defined under the separation of powers framework in the constitution of the federation and the fact that federal government does not have any authority or power over the constituent states. For this reason, the criticisms aimed at Christofias were not directed against the concept of the "two con- 6 Kemoal **GOZLER**, D-iw (i. TG , Bursa, Iki Ktite Yayldrn , 2007, p 159 hup:iw wkibrisget cov/ haber/kil i] 840/(histofia- %22Cozumn-plani-sekilleniyor%22htmn, last accessed 1 3 122009 8... http:w i ~v~vun org/ga/64/generatdebate/CYshtml, last accessed 13.12 2009 9 For different terminology used in different countries referring to states in a federation, See **GOZLER** e p 152 #12;

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4. **Unconstitutional Constitutional Amendments - The Migration and Success of a Constitutional Idea [article]**
American Journal of Comparative Law, Vol. 61, Issue 3 (Summer 2013), pp. 657-720
Roznai, Yaniv (Cited 38 times)
61 Am. J. Comp. L. 657 (2013)
All Matching Text Pages (6)

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NORMS IX (Mads Andenas ed., 2000). 10. For comparative studies, see KEMAL **GOZLER**, JUDICIAL REVIEW OF CONSTITUTIONAL AMENDMENTS: A COMPARATIVE STUDY (2008); Gary Jeffrey Jacobsohn, An Unconstitutional Constitution? A Comparative Perspective, 4 (3) INT'L. J. CONsT. L. 460 (2006); MARIE-FRANCOISE RIGAUX, LA THEORIE DES LIMITES MATERIELLES A L'EXERCICE DE LA FONCTION CONSTITUANTE (1985); O'Connell, supra note 5, at 74. 11. See, e.g., Pierre Legrand, The Impossibility of "Legal Transplants," 4 MAAS- TRICHT

J. EUR. & COMP. L. 111 (1997); Roger Cotterrel, Comparative Law and Legal Culture, in THE OXFORD

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During the first half of the nineteenth century—even before the French explicit prohibition on amending the republican form of government—Latin American states were influenced by ideas from the U.S. Constitution and the French Revolution and widely used unamendable provisions in order to protect certain principles, tailoring them to local contexts. 43. For an analysis of the formal and substantive distinctions between the original and derived constituent power, see KEMAL **GOZLER**, LE POUVOIR DE REVISION CONSTITUTIONNELLE 12-32 (1995); KEMAL **GOZLER**, POUVOIR CONSTITUANT 10-28 (1999) [hereinafter... **GOZLER** 1999]. 44. RAYMOND CARRP DE MALBERG, CONTRIBUTION A LA THEORIE GENERALE DE L'ETAT 489-500 (CNRS 1962) (1922). See also GEORGES BURDEAU, ESSAI D'UNE THEORIE DE LA REVISION DES LOIS CONSTITUTIONNELLES EN DROIT FRANCAIS 78-83 (1930) (distinguishing between constituent power in a strict sense, which is the establishment of the very first constitution outside the law, and the revision power, which is the power invested in a statutory body to modify the constitutional rules through the legal system); Roger Bonnard, Les actes constitutionnels de 1940, REVUE DU DROIT PUBLIC 46, 48-49 (1942...) (original constituent power exists outside of any constitutional authority, whereas the amendment power-pouvoir institué—requires a constitution in force for its exercise); see generally **GOZLER** 1999, supra note 43, at 10-28. 45. See Michel Troper, Constitutional Law, in INTRODUCTION TO FRENCH LAW 1, 11 (George A. Bermann & Rtienne Picard eds., 2008). 46. In France, it was held that judicial review of constitutional amendments is not considered within the Conseil Constitutionnel's competence. See French Constitutional Council No. 1962-20 DC, Nov. 6, 1962; French Constitutional Council No. 2003-469

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Constitutional Amendments, 62(3) INTL & COMP. L. Q. (forthcoming, 2013). 125. Decision of Apr. 4, 1950, 2 Verwaltungs-Rechtsprechung No. 65, quoted in Dietze, supra note 124, at 15-16. 126. 1 BVerfGE 14, 32 (1951); see **GOZLER**, supra note 10, at 84-86. 127. 3 BVerfGE 225, 234 (1953), see Dietze, supra note 124, at 17-19; **GOZLER**, supra note 10, at 86-87; DONALD P. KOMMERS, THE CONSTITUTIONAL JURISPRUDENCE OF THE FEDERAL REPUBLIC OF GERMANY 55 (1989). 128. Orro BACHOF, VERFASSUNGSWIDRIGE VERFASSUNGSNORMEN? (1951). 129. Id. at 35, 47 et seq. I thank Maijorie Kaufman for translating Bachofs book to

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the Basic Law extends beyond human dignity to include equality before the law, but in the Land Reform II case, the Constitutional Court held that an amendment would be unconstitutional only if it affected one of the immutable principles explicitly mentioned in Article 79(3); thus the principle of equality is not immutable. See 84 BVerfGE 90 (1991); 94 BVerfGE 12 (1990); **GOZLER**, supra note 10, at 61. 131. 30 BVerfGE 1, 24 (1970); see Donald P. Kommers, German Constitutionalism: A Prolegomenon, 40 EMORY L. J. 837, 852 (1991); O'Connell, supra note 5, at 55. An English translation of the case is

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of Sept. 29, 1988, VfSlg, 11.829; both cited in **GOZLER**, supra note 10, at 34-39. See generally Alexander Somek, Constitutional Theory as a Problem

of Constitutional Law-On the Constitutional Court's Total Revision of Austrian Constitutional Law, 32 *ISR. L. REV.* 567 (1998). 182. See, e.g., Decision of June 23, 1988, *VfSlg*, 29, V 102/88; cited in **GOZLER**, *supra* note 10, at 37. 183. Decision of Mar. 10, 2001, G 12/00, G 48-51/00, cited in **GOZLER**, *supra* note 10, at 38-39; see also Val'o, *supra* note 173, at 29; Pfersmann, *supra* note 5. 687

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.200 peace, national solidarity and justice; respecting human rights; loyal to the national-ism of Atattirk, and based on the fundamental tenets set forth in the Preamble." 196. See **GOZLER**, *supra* note 10, at 64-66, 95-97; see also Ozbudun, *supra* note 2, and Roznai & Yolcu, *supra* note 2, at 195-97. 197. Decision of Apr.15, 1975, no. 1975/87; Decisions of Mar. 23, 1976, no. 1976/1963 and Oct. 12, 1976, no. 1976/46; Decision of Jan. 28, 1977, no. 1977/4; Decision of Sept. 27, 1977, no. 1977/117; see **GOZLER**, *supra* note 10, at 42-47; Roznai & Yolcu, *supra* note 2, at 195-97. 198. Constitutional Court

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Cited by 13 Articles
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5. **Constitutional Protection of the Head of State: The Case of Kosovo [article]**
Vienna Online Journal on International Constitutional Law, Vol. 7, Issue 2 (2013), pp. 128-149
 Hasani, Enver (Cited 8 times)
 7 *Vienna J. on Int'l Const. L.* 128 (2013)
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aspects of preventive control of constitu- tional amendments, Cf Kemal **Gozler**, *Judicial review of Constitutional Amendments: A Comparative Study* (Ekin Press, Bursa 2008); Gary Jeffrey Jacobson, 'An unconstitutional constitution: comparative perspective' (2006) 4 *Int'l J Con Law* 460. 21 Art 144.1 of the Constitution (Amendments): 'The Government, the President or one fourth (1/4) of the deputies of the Assembly as set forth in the Rules of Procedure of the Assembly may propose changes and amendments to this Constitution'. 22 'Zgjedhjet e parakohshme presidenciale varen nga Jahjaga', Pristina-based

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review of laws. Quoted in Kemal **Gozler**, *Judi- cial Review of Constitutional Amendments. A Comparative Study* (Ekin Press, Bursa 2008) 29. 53 Cf n 19 and the text accompanying it. 54 He used this term in his analysis of the Chapter II of the Weimar Constitution. These 'entrenched provisions', according to him, represented a second German constitution of Germany alongside the Weimar Constitution. This was so because, in his view, this Chapter limited the power of the president and the government of the Reich since it created additional and special duties for these bodies in favor of ordinary German... amended under any situation and to which all other provisions of the German Constitution are subordinated. Cf Kemal **Gozler**,

Judicial Review of Constitutional Amendments. A Comparative Study, 55-56, 84-86; Donald P Kommers, 'German Constitutionalism: A Prolegomenon', 858-859, n 60. Article Five of the United States describes the process whereby the Constitution may be altered. Altering the Constitution consists of proposing an amendment or amendments and subsequent ratification. Once ratified, amendment or amendments become a valid part of the Constitution, provided that no state 'shall be... deprived of its equal suffrage in the senate,' without its consent. In a similar fashion, the Constitution of Norway of 1814 speaks of the ban on any amendment that runs against the principles and the very spirit of the original text of the Constitution. Cf more on these issues in Kemal **Gozler**, *Judicial Review of Constitutional Amendments. A Comparative Study*, 10-12, 28-34, 78-80; Lech Garlicki and Zofia A Garlicka, 'Review of Constitutionality of Constitutional Amendments (An Imperfect Response to Imperfections)', 205 at n 46. @ Verlag Osterreich 144 #12;

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-04 Regarding the Election of the President of the Republic of Kosovo of 22 February 2001. Karl Sm it, *Tri Vrste Pravnonaucnog Misljenja* (Biblioteka Parerga, Beograd 2003). Kemal **Gozler**, *Judicial review of Constitutional Amendments. A Comparative Study* (Ekin Press, Bursa 2008). Lech Garlicki and Zofia A Garlicka, 'External Review of Constitutional Amendments? International Law as a Norm of Reference' (2012) 44 *Israel L Rev* 343. Lech Garlicki and Zofia A Garlicka, 'Review of Constitutionality of Constitutional Amendments (An Imperfect Response to Imperfections)' (2012) 1 *J Const L/Revue De Droit*

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6. **When a Constitutional Amendment Violates the Substantive Core: The Czech Constitutional Court's September 2009 Early Elections Decision [article]**
Review of Central and East European Law, Vol. 36, Issue 1 (2011), pp. 33-52
 Williams, Kieran
 36 *Rev. Cent. & E. Eur. L.* 33 (2011)
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derived from 57 Anna Gamper and Francesco Palermo, "The Constitutional Court of Austria: Modern Profiles of an Archetype of Constitutional Review", 3 (2) *J. Comp. L.* (2008), 64-79, at 69. (Footnote omitted from citation.) 58 Kemal **Gozler**, *Judicial Review of Constitutional Amendments: A Comparative Study* (Ekin, Bursa, 2008), 34-37. This book was cited by the Czech Court in the Melik case (at 4629) to support its claim that: 'The development of democratic constitutionalism in democratic countries at present emphasizes the protection of values identifying a constitutional system of freedom and... democracy, including alternative forms of judicial review of constitutional amendments.' Gbzler's book in fact shows that there is still a very wide range of views on the matter, with several noteworthy states (such as France, the United States, Norway and Turkey under its 1982 Constitution) not authorizing courts to safeguard aspects of their

constitutions deemed unalterable, such as republican guaranty clauses. 59 **Gozler**, op.cit. note 58, 37-39. The Czech Court in the Melik decision mentions one of them, Case G i2/oo (accessible at) but botches (at 4629) its citation, giving it as VgGH 16.327 rather than VfSlg. 16.327/2001, and the date (giving ii November instead of ii October 2oo). It thereby duplicates an error in Hollander's 2005 article "Materidni ohnisko fistavy a diskrcie fistavodirce" (at 323). 6o **Gozler**, op.cit note 58; Richard Stith, "Unconstitutional Constitutional Amendments: The Extraordinary Power of Nepal's Supreme Court", I(i) Am. UJ. Int'lL. &Poly (1996), 47-77; GaryJeffreyJacobsohn, 'An Unconstitutional Constitution? A Comparative Perspective', 4(3) Int'lJf. Cont. L. (2oo6), 460-487; and Richard Albert

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7. **Legal Persons That Can Be Member in the Cooperatives following the Changes in the Code Numbered 5146 and Dated 21.04.2004 [article]**
Banka ve Ticaret Hukuku Dergisi, Vol. 23, Issue 4 (December 2006), pp. 93-110
Deryal, Yahya
23 Banka Huk. Dergisi 93 (2005-2006)
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iken; ozellikle i~tirakler (m. 2/b. 6), devletin sermaye payi en az % 15 ve en fazla % 50 olan anonim Őirketlerdir. Ticaret Őirketlerinin kooperatif dyeligine arth (18) Steiner, H. (Cev." Celal Uzel/Haluk Uzel): Az GelimiŐ Ulkelerde Kooperatifler ve Devlet, Ankara 1966, s. 45. Hazar, N., Kooperatifgilik Tarihi, Geni~letilmiŐ tlaveli 3. Baski, Ankara 1990, s. 266-274. (19) **Gozler**, K.: Idare Hukuku, C. I, Ankara 2003, s. 483. (20) 233 sayfli KHK. bu kavramlari tanımlamaktadır (m. 2): MUessese, "sermayesinin tam ami bir iktisadi devlet teekkuine veya kamu iktisad! kurulu~una ait

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-99, <http://www.koopkur.org.tr/pdf/koop/146.pdf>, 25.10.2006). **Gozler**, K.: dare Hukuku, C. 1, Ankara 2003. Hazar, N.: Kooperatifgilik Tarihi, 3. Baski, Ankara 1990. Helm, F.: The Economics of Cooperative Enterprise, London 1968. ICA: Coooperatives and the States, London 1980. Karayalqm, Y.: Ticaret Hukuku, C. If (irketler Hukuku), Ankara 1973. Oguzman/Seliqi: Ki~iler Hukuku Dersleri, Gerqek ve Tzel Ki~iler, istanbul 1988. Ozmen, K.: Yap Kooperatifleri ve Uygulaması, Istanbul 2000. Ozsunay, E.: Medeni Hukukumuzda Ttizel Ki~iler, Istanbul 1982. [Ydi 2006 #12;

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8. **Book Reviews [reviews]**
International Journal of Constitutional Law, Vol. 7, Issue 3 (July 2009), pp. 544-552
7 Int'l J. Const. L. 544 (2009)
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University Press, 2009. Pp. 319. Peter Cane, Carolyn Evans, and Zoe Robinson, eds., *Law and Religion in Theoretical and Historical Context*. Cambridge University Press, 2008. Pp. 328. Damian Chalmers, Christos Hadjiemmanuil, Giorgio Monti, and Adam Tomkins, eds., *European Union Law: Text and Materials*. Cambridge University Press, 2007. Pp. 1235. Damian Chalmers and Giorgio Monti, eds., *European Union Law: Updating Supplement*. Cambridge University Press, 2008. Pp. 214. Kemal **Gozler**, *Judicial Review of Constitutional Amendments: A Comparative Study*. Ekin Press, 2008. Pp. 126. Grant Huscroft, ed

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9. **Gender Equality in the Constitution of the Republic of Turkey [article]**
Ankara Bar Review, Vol. 1, Issue 2 (June 2008), pp. 18-26
Kuzeci, Elif
1 Ankara B. Rev. 18 (2008)
All Matching Text Pages (1)

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actual examples, following a 6 Kemal **GOZLER**, *TirkAnayasa Hukuku*, Ekin, Bursa 2000, p.180-181. 7 Bflent TANOR, Nemci YGZBA\$IOGLU, 1982 *Anayasasna gore Tiirk Anayasa Hukuku*, YKY, Istanbul 2001, p. 114. 8 See English translation of Turkish Constitution: http://www.anayasa.gov.tr/images/loaded/pdf/dosyalari/THECONSTITUTION_OF_THE_REPUBLIC_OF_TURKEY.pdf 9 As amended on October 17, 2001 the subparagraph 1 of the Article 41 set forth that provision: "The family is the foundation of the Turkish society and based on the equality between the spouses". 10 As amendend on October 17, 2001 the subparagraph

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10. **Compulsory Religious Education in Turkey [article]**
Religion & Human Rights: An International Journal, Vol. 8, Issue 3 (2013), pp. 223-242

Cinar, Ozgur H.
8 Religion & Hum. Rts. 223 (2013)
All Matching Text Pages (1)

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principle of proportionality, and that any restrictions shall also not impinge on the essence of rights. Altiparmak argues that compulsory 24 For education in Koran courses see Kemal **Gozler**, 1982Anayasasina Gore Din Egitimi ve Oretimi, , accessed 1 June 2013. -5 Demir, supra note 22, p. 154. 26 State Education Act, Law no. 1739, adopted 14 June 1973, Official gazette dated 24 June 1973 (no. 14574). 27 **Gozler**, supra note 24; Ensar Vakfi, supra note 1, p. 52; Demir, supra note 22, pp. 153-154. 21 'Zorunlu Din Dersi Anayasal Bir Gereklilik', CNN Turk, 22

Accessed 1 Times

11. **Rise of Political Islam in Turkey and its Effects on Turkish-Syrian Relations [article]**
Contemporary Readings in Law and Social Justice, Vol. 4, Issue 2 (2012), pp. 226-237
Akkaya, Saffet
4 Contemp. Readings L. & Soc. Just. 226 (2012)
All Matching Text Pages (1)

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society casting the identity of the individuals. In recent years, Prime Minister R. Tayyip Erdogan particularly during his election campaigns, have widely used such arguments. But actually, the founding politicians of Turkish Republic have systematically established the conditions of forming a society upon a broader and contemporary nationalism idea, since the very early years of the republic. They were aware of the nation-state process in the western world and how a modern state could rise upon the values and norms, com- mon culture and other subjectivist ideals. As Kemal **Gozler** asserts they

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12. **Judicial Way for Acts Performed Solely by the Officer of Trade Register [article]**
Banka ve Ticaret Hukuku Dergisi, Vol. 23, Issue 4 (December 2006), pp. 287-300
Ozdamar, Megmet
23 Banka Huk. Dergisi 287 (2005-2006)
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2004, s. 260; Atay, E. E.: *Idare Hukuku*, Ankara 2006, s. 343 vd. (14) **Gozler**, idari ilem kavrami hakkinda yaptigi tammlardan birinde, "Idari i~lem, hukukf sonuC dogurmaya yinelik, kamu giicii ayricalgina dayanan irade

apklamalaridir" ifadelerini kullanmitir (s. 553). Ticaret sicili memurunun yaptik i~lemler de bu tamma uymaktadir. (15) Karahan, S.: Ticaret Sicili Memurunun Kararlarna Kari Hukuki Yollara Bapvurabilecek "flgililer" Kavramini Kapsami, TNBHD 1994, S. 84, s. 48. IYd1 2006 #12;

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13. **The Theory and Practice of Supra-Constitutional Limits on Constitutional Amendments [article]**
International and Comparative Law Quarterly, Vol. 62, Issue 3 (July 2013), pp. 557-598
Roznai, Yaniv (Cited 38 times)
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Roznai, Yaniv (Cited 38 times); Suteu, Silvia (Cited 2 times)
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Transition: From Newly Emerged Democracy Towards Autocracy?, 26 REV. CENT. & E. EUR. L. 267 (2000). See generally Roznai, supra note 31; KEMAL **GOZLER**, JUDICIAL REVIEW OF CONSTITUTIONAL AMENDMENTS-A COMPARATIVE STUDY 5-7 (2008). 9 UKRAINE CONST. (1996), art. 159; Tykhyi, supra note 96, at 207-08 (2011); GABOR HALMAI, PERSPECTIVES ON GLOBAL CONSTITUTIONALISM 40 (2014); WOJCIECH SADURSKI, RIGHTS BEFORE COURTS: A STUDY or CONSTITUTIONAL COURTS IN POSTCOMMUNIST STATES OF CENTRAL AND EASTERN EUROPE 25, n. 116 (2014); see generally Futey, supra note 78 (discussing the Constitutional Court). C See Dec

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). In Trevor L. Brown & Charles R. Wise, Constitutional Courts and Legislative-Executive Relations: The Case of Ukraine, 119 POL. Sci. Q. 143, 155 (2004). 15o Of course, in some jurisdictions, courts have taken upon themselves such a judicial role, even without an explicit authority in the constitution. See Yaniv Roznai, Unconstitutional Constitutional Amendments-The Migration and Success of a Constitutional Idea, 61 AM. J. COM. L. 657 (2013); ROZNAI, supra note 31; **GOZLER**, supra note 97, at 5-7. I The involvement of courts in questions of territory is not in itself unique. See, e.g., Texas v

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constitutions included such provisions, and between 1989 and 2013, already

over fifty percent of new constitutions include formal unamendable provisions. See Roznai, *supra* note 16. Unamendability can also be implicit and judge-made through judicial decisions; Roznai, *supra* note 110; RoZNAI, *supra* note 31; **GOZLER**, *supra* note 97. 114 Wiktor Oslatynski, Rights in New Constitutions of East Central Europe, 26 COLUM. HUM. RTS. L. REV. 111 (1994); HERMAN SCHWARTZ, THE STRUGGLE FOR CONSTITUTIONAL JUSTICE IN POST-COMMUNIST EUROPE (2002); SADURSKI, *supra* note 98. 115 Stephen Holmes, Back to the Drawing Board: An

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Romanian Journal of Comparative Law, Vol. 6, Issue 2 (2015), pp. 224-239
Tansug, Cagla
6 Rom. J. Comp. L. 224 (2015)
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Concurrence, 2011, pp. 19-27. QAGLAYAN R., Idare Hukuku Dersleri (Les cours de Droit administratif), 2eme 6d., Adalet, 804 pp. DURAN L., << Tiirkiye'de Bagimsiz Idari Otoriteler (<< Les autorites administratives independantes en Turquie >>), Amme Idaresi Dergisi (Revue de l'administration publique), T.30, Vol.1, Mars 1997, pp. 3-10. ERKUT C., Discussion sur les autorit6s administratives ind6pendantes, Colloque: Les autorit6s administratives ind6pendantes, le 5 Novembre 2011, Institution de la Concurrence, 2011, pp. 81-86. **GOZLER** K. - KAPLAN G., Idare Hukuku Dersleri (Les cours de Droit administratif

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Arkansas Law Review, Vol. 69, Issue 2 (2016), pp. 317-334
Friedman, Lawrence (Cited 295 times)
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the United States, courts are willing and able to hold constitutional amendments unconstitutional. See KEMAL **GOZLER**, JUDICIAL REVIEW OF CONSTITUTIONAL AMENDMENTS: A COMPARATIVE STUDY (2008) (discussing courts' ability to review constitutional amendments). 7. See

generally Richard Albert, *The Unamendable Core of the United States Constitution*, in *COMPARATIVE PERSPECTIVES ON THE FUNDAMENTAL FREEDOM OF EXPRESSION* 13 (Andrbs Koltay ed., 2015) (discussing whether the U.S. Constitution requires some form of unamendability). 318 #12;

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of the law.53 46 Id at 56; see also Bassiouni & Badr, *supra* note 26, at 156; Freamon, *supra* note 20, at 29-30. 47 Abdal-Haqq, *supra* note 3, at 56. 48 Bassiouni & Badr, *supra* note 26, at 155. 49 ABIAD, *supra* note 4, at 51. 50 id 51 *TORKIYE CUMHURİYETİ ANAYASASI* of 1961 Madde 2 [CONSTITUTION] (Turk.) (translated by Kemal **Gozler**); see also Kemal **Gozler**, *Turkish Constitutional Law Material in English*, <http://anayasa.gen.tr/english.htm> (last updated Feb. 9, 2009). 52 ABIAD, *supra* note 4, at 51. " CONSti~uow OF THE ARAB REPUBLIC OF EGYPT, Sept. 11, 1971, as amended, May 22, 1980, May 25, 2005, Mar

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 50 Wake Forest L. Rev. 951 (2015)

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personal data). 127. Halmai, *supra* note 113, at 183. 128. Id. 129. See KEMAL **GOZLER**, JUDICIAL REVIEW OF CONSTITUTIONAL AMENDMENTS: A COMPARATIVE STUDY 52 (2008). 970 [Vol. 50 #12;

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or invalidate the decisions made by the Constitutional Court by enacting a statute with constitutional law status."38 These scholars suggest that a constitution should be amended by adopting an "incorporation principle" A la Article 79 of the German Grundgesetz, for example, 130. See Corte Cost., 29 dicembre 1988, n. 1146, Racc. uff. corte cost. 1988, II (It.). 131. See id. 132. See id. 133. See id. 134. See THE ROUTLEDGE HANDBOOK OF CONTEMPORARY ITALY: HISTORY, POLITICS, SOCIETY 150 (Andrea Mammine et al. eds., 2015). 135. See **GOZLER**, *supra* note 129, at

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Israel Law Review, Vol. 44, Issue 3 (2011), pp. 343-368
Garlicki, Lech (Cited 17 times); Garlicka, Zofia A. (Cited 5 times)
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challenged amendment. See KEMAL **GOZLER**, JUDICIAL REVIEW OF CONSTITUTIONAL AMENDMENTS: A COMPARATIVE STUDY 40-41 (2008). 347 #12;

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on the Lisbon Treaty: Bundesverfassungsgericht [BVerfG] [Federal Constitutional Court] June 30, 2009, 2 BvE 2/08, in particular para. 226 et seq. See also the following judgments of the Court: 30 BVERFGE 1 (24) (1970); 34 BVERFGE 9 (19) (1972); 84 BVERFGE 90 (120) (1991); 94 BVERFGE 49 (1996); 109 BVERFGE 279 (2004). In all these judgments, the Court upheld constitutional amendments under review. In regard to France, see Denis Baranger's contribution in this issue. 14 **GOZLER**, *supra* note 8, at 45-49. 1s Judgment of June 5, 2008 (E 2008/16; K 2008/116). The Court declared the amendment to be

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 Esen, Selin (Cited 2 times); Gonenc, Levent (Cited 2 times)
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in Turkey) 107 (TUSIAD 1997); Bulent Tanor & Necmi Yuzbasioglu, 1982 Anayasasma Gore Tfirk Anayasa Hukuku (Turkish Constitutional Law According to the Constitution of 1982) 167 (Yapi Kredi 2001) (Turkish); Ibrahim O. Kaboglu, Ozgurlukler Hukuku (Law of Freedoms) 365-368 (6h ed., Imge Kitabevi 2002) (Turkish); Yavuz Sabuncu, Anayasaya Giris (Introduction To The Constitution) 137 (Imaj Yayinevi 2005) (Turkish). 59. Kemal **Gozler**, Tirk Anayasa Hukuku (Turkish Constitutional Law) 125 (Ekin Kitabevi 2000). 60. This regulation was added to the Population Register Law of 1972 in 1984 by the L. No

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applicable to Article 35 of the current Population Services Law because it preserves the requirement for religious notations on ID cards unless individuals 3080, adopted by TGNA on Nov. 15, 1984; published in Official Gazette on Nov. 21, 1984 (No. 18582). 61. **Gozler**, supra n. 59, at 125. 62. Art. 22 of the Population Register Law of 1972. 63. This principle forbids the state from wielding its power to impose on individuals, certain behavior which the individuals would otherwise not prefer. Freedom from coercion, in this sense, creates a protected domain for individuals against state interference

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 59 Am. J. Comp. L. 715 (2011)
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(2009). 47. These cases are summarized and criticized in KEMAL **GOZLER**, JUDICIAL RE- VIEW OF CONSTITUTIONAL AMENDMENTS: COMPARATIVE STUDY 66-78, 88-99 (2008). 48. See Anwar Hossain Chowdhary v. Bangladesh, 1989 BLD (AD)(Spl) 1; Al-Je- had Trust v. Federation of Pakistan, PLD 1996 SC 324 (both discussed in Anuranjan Sethi, Basic Structure Doctrine: Some Reflections at 34-35 (Oct. 25, 2005), available at <http://ssrn.com/abstract=835165>); Loh Kooi Choon v. Government of Malaysia, 1997 2 M.L.J. 187. 49. E.g., In re The 13th amendment to the Constitution, [1987] 2 SRI LANKA L. R. 312. The United States

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the possibility, under certain circumstances, of a national constitutional convention. A convention specially elected for, and specially focused on, constitutional revision was understood as uniquely competent to represent the sovereign people and its very irregularity, its independence from existing state law, was felt to enhance its qualification. See, e.g., Constitution of the Republic of Turkey, 1982, arts. 2-4 (making certain features of the constitutional state irrevocable including, inter alia its "democratic, secular and social" character). For other examples, see **GOZLER**, supra note

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Constitutional Court distinguishing revisions requiring referenda from amendments that may be effected by Parliament is discussed in **GOZLER**, supra note 47, at 34-40. The Philippine constitution, in contrast, authorizes amendment but not revision by popular initiative. Constitution of the Republic of the Philippines, 1987 art. XVII. The Philippine Supreme Court elaborated the distinction in *Lambrino v. Comm'n on Elections*, G.R. No. 174153. Several American state constitutions allow constitutional amendments but not revisions to be proposed by popular initiative. See, e.g., California Constitution, art

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Queen's Law Journal, Vol. 41, Issue 1 (Fall 2015), pp. 143-206
 Albert, Richard (Cited 169 times)
 41 *Queen's L.J.* 143 (2015-2016)
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value of human dignity to invalidate several others laws.⁵ A court may also interpret formal unamendability in connection with the adoption of a new constitution. The most well-known example comes from South Africa. In the transitional period after the end of apartheid, political actors adopted an interim constitution on the understanding that a new constitution would be adopted within two years of the first sitting.⁵³ See e.g. Kemal **Gozler**, *Judicial Review of Constitutional Amendments: A Comparative Study* (Bursa, Turkey: Ekin Press, 2008) at 40-49; Yaniv Roznai & Serkan Yolcu, "An

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include statutory unconstitutionality, the recognition of convention, and unconstitutionality by implication. 198. See Albert, "Amendment Difficulty", supra note 72. 199. See e.g. Supreme Court Act Reference, supra note 156; Senate Reform Reference, supra note 5. 200. I have learned a great deal from Kemal **Gozler's** study of unamendability, in which he divides judicial review of constitutional amendments into procedural and substantive categories. He

does not, however, offer further differentiation between the two categories, nor does he consider the third category I suggest here. See **Gozler**, *supra*

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24. **Principe de Non-Hierarchie entre Droits et Libertes Fondamentaux: L'Inaccessible Etoile, Le [article]**
Revue Generale de Droit, Vol. 41, Issue 1 (2011), pp. 93-142
 Lampron, Louis-Philippe (Cited 4 times); Brouillet, Eugenie (Cited 8 times)
 41 Rev. Gen. 93 (2011)
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servira ensuite (2.2.3) A noncer les grands jalons m-ethodologiques permettant l'identification d'une hierarchie materielle entre droits et libertis fondamentaux. 1.1 HIERARCHIES JURIDIQUE VERSUS MORALE 9. Le constitutionnaliste Kemal **Gozler** nous semble avoir trbs bien ddfini les deux grands types de en vertu desquelles les juristes qui s'int6ressent A la question de la < des diffirents droits et libert6s fondamentaux (ou qui militent en faveur de la pr6dominance d'un de ceux-ci par rapport aux autres) peuvent actuellement < classer > les droits et libertis fondamentaux de la

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qui rbgle la cr6ation est la norme supdrieure, la 7. Kemal **GOZLER**, < La question de la hi6rarchie entre les normes constitution- nelles -, *Annales de la Facult6 de droit d'Istanbul*, vol. XXXII, no.48, 1998, p. 65, [En ligne]. <http://www.anayasa.gen.tr/hierarchie.htm> (Page consultke le 23 aoilt 2010). 8. L'importance pour les chercheurs en droit de distinguer le du <>) a d'ailleurs td soulign6e par Kelsen dans sa Thdorie pure: <... l'on doit constater que la puret6 m6thodologique de la science du droit n'est pas compromise seulement par le fait que l'on ne respecte

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mame sens, voir 6galement: Kemal **GOZLER**, *Le pouvoir de rdvision constitutionnelle*, Villeneuve d'Ascq, Presses universi- taires du Septentrion, 1997, p. 320-321 et 331-332. LAMPRON ET BROUILLET #12;

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Drinoczi, Timea (Cited 2 times)
 2012 Jura: A Pecs Tudomanyegyetem Allam- es Jogtudomanyi Karanak
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kihirdetss napjAt foglalja magAban. 34 Az alacsonyabb hierarchiai fokon
 A116 norma nem m6dosithat magasabb hierarchiai fokon All6 normAt. 35Ld.
 a hatarozat V.2. pontjat. 3 Ennek viszonylag teljes kOrui targyalasAt Id.:
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 study. EKIN Press, Bursa 2008. www.anayasa. gen.tr/jrca.htm, Gary Jeffrey
 Jacobsohn: An unconstitutional constitution? A comparative perspective.
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26. **In the Name of the Constitution - Substantive Limits of Constitutional Change**
[article]
Zbornik Pravnog Fakulteta u Zagrebu, Vol. 65, Issue 3-4 (2015), pp. 481-504
 Vukovic, Ana Horvat
 65 Zbornik PFZ 481 (2015)
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naêela koja bi - neovisno o specifiênostima povijesne, kulturne i
 institucionalne slike pojedine drave - êinila opéu sr ustavnog identiteta79 75
 Barak, op. dt. u bilj. 21, str. 338. 76 Barak, A., Le rôle de la Cour suprême
 dans une démocratie, RFDC, br. 66, 2006., str. 241, prema Kostadinov, op.
 dt. u bilj. 35, str. 307. 77 IKemal **Gozler** jedan je od autora koji
 supstancijalna ogranidenja ustavne promjene dopuýtaju samo u sludaju
 postojanja izridite "Idauzule vjednosti" - op. dt. u bilj. 41, str. 67. Navodi da
 implicitna supstancijalna ogranidenja nisu uopce upisana u ustavnom tekstu

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27. **Legisprudence Limitations on Constitutional Amendments: Reflections on the**
Czech Constitutional Court's Declaration of Unconstitutional Constitutional Act
[article]
Vienna Journal on International Constitutional Law / ICL Journal, Vol. 8, Issue
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Success of a Constitutional Idea' (2013) 61.3 American Journal of Comparative Law 657; Yaniv Roznai, 'The Migration of the Indian Basic Structure Doctrine' in Malik Lokendra (ed), *Judicial Activism in India - A Festschrift in Honour of Justice V. R. Krishna Iyer* (Universal Law Publishing Co 2012) 240; For a review of different judicial approaches see also Kemal **Gozler**, *Judicial Review of Constitutional Amendments - A Comparative Study* (Ekin Press 2008); Gary Jeffrey Jacobsohn, 'An Unconstitutional Constitution? A Comparative Perspective' (2006) 4.3 Intl J Const L 460. 13 On substantive limits on

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, the existence - or absence thereof - of any explicit limitation on amendments is decisive. When expressed limitations exist, the judicial enforceability of these limitations seems if not self-evident then at least less contentious. This is because such judicial exercise would carry greater legal legitimacy since it would conform to the legal norms applicable to the issue at hand.²⁴ As we have learned from the celebrated *Marbury* 21 See Gabor Halmai, 'Unconstitutional Constitutional Amendments: Constitutional Courts as Guardians of the Constitution' (2012) 19.2 Constellations 182-191; **Gozler** (n

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extensively. See **GOZLER** Kemal, *Parti Kapatmanin Kriteri Ne? Parti Kapatmaya Kari Anayasa Dekiikligi (7ziim mi? [What are the Criteria for Party Dissolution? Is a Constitutional Amendment Against Party Dissolution*

the Solution?], 93 *Türkiye Giinlhi*, Sayı 24-31, Bahar (2008). **GOZLER** proposes changing the composition of the Court (putting emphasis on the parliament's discretion in the proposal of judges) in order to moderate its stance towards political parties. See *Id.* 4. See Rapor, *Siyasi Partilerin Kapattimasi Konusunda Ttirkiye ve Ban Ulkelerdeki Yasal Diizenlemeler*, TBMM Ara~tırma Merkezi, Hukuk B61

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 Carlino, Steven G.
 32 *Ohio N.U. L. Rev.* 59 (2006)
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 propriety of a suit against the corporation, and explicitly held, that unless there was an allegation of formalice, on the defendants' part, no action could be maintained). 74. **Gozler v. Corp. of Georgetown**, 19 U.S. 593 (1821). 75. *Id.* at 595. 76. *Goodloe*, 4 *Ohio* at 507. 77. *Id.* [Vol. 32 #12;

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31. **Jogrendszerek Versenye es Alkotmanyos Parbeszed [article]**
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10 *Rev. Int'l L. & Pol.* 1 (2014)
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14.11.2013, [http://www.anayasa.gov.tr/files/pdf/anayasa-yargisi/
anayargi/armagan.pdf](http://www.anayasa.gov.tr/files/pdf/anayasa-yargisi/anayargi/armagan.pdf), s. 340. 14 **Gozler**, 2006, ss. 271-273. #12;

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Comparative Labor Law & Policy Journal, Vol. 30, Issue 3 (Spring 2009), pp.
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Sural, Nurhan (Cited 8 times)
30 *Comp. Lab. L. & Pol'y J.* 569 (2008-2009)
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at least fifteen years as a member of the teaching staff of institutions of higher education or to have actually worked at least fifteen years in public service or to have practiced as a lawyer for at least fifteen years. The members of the Constitutional Court shall retire on reaching the age of sixty-five. See Anayasa [Constitution] art. 146-147 (Turk.). 30. Kemal **Gozler**, Parti Kapatmanın Kriteri Ne? Parti Kapatmaya Karsi Anayasa Degisikligi Cozum mu?, 93 *TURKIYE GUNLUGU* 24-31 (2008) (Turk.). 31. Discrimination (Employment and Occupation) Convention, 1958. 32. Law no. 5170, *OFFICIAL GAZETTE*

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35. **Constitution et son Instrumentalisation par les Gouvernants des pays Arabes Republicains: Cas de la Tunisie, de l'egypte et de l'Algerie [article]**
Revue Generale de Droit, Vol. 42, Issue 2 (2012), pp. 685-728
Abdessemed, Abderrachid
42 Rev. Gen. 685 (2012)
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certainement contribu6. Par contre, ce sont les gouvernants de ces pays qui en sont les principaux responsables. 170. J. L. ATANGANA AMOUGOU, *pr6c.*, note 124, 3, citant Ldopold DONFACK SOKENG, < L'tat de droit en Afrique >, (2002) juillet-ddcembre *Afrique juridique et politique* 87. 171. J. L. ATANGANA AMOUGOU, *id.* 172. Kemal **GOZLER**, *Le pouvoir de revision constitutionnelle*, 2 vol., Villeneuve d'Aseq, Presses Universitaires du Septentrion, 1997. 173. J. L. ATANGANA AMOUGOU, *pric.*, note 124.

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Id. 4 Abdal-Haqq, *supra* note 3, at 56. See also Bassiouni & Badr, *supra* note 26, at 156, and Freamon, *supra* note 20, at 29-30. 4 Abdal-Haqq, *supra* note 3, at 56. 46 Bassiouni & Badr, *supra* note 26, at 155. 4 ABIAD, *supra* note 4, at 51. 48 Id. 4 Turkey [Constitution] 1961, Art. 2. See also Kemal **Gozler**, *Turkish Constitutional Law Material in English*, <http://anayasa.gen.tr/english.htm> (last visited on Oct. 6, 2010). 5o ABIAD, *supra* note 4, at 51. 5 Tunisia [Constitution] June 1, 1959, No. 57, ch. 2. See also *The Republic of Tunisia, Representatives Council, The Constitution*, <http://www.chambre>

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37. **Passing of Risk in Sale of Immovable Properties according to the Turkish Code of Obligations No. 6098 [article]**
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, N.: Medeni Hukuk, Giriş-Kaynaklar-Temel Kavrailar, istanbul 2013, s. 87-88; **Gozler**, K.: Hukuka Giriş, Bursa 2013, s. 237. [Y112015 #12;

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, however, disclaimed responsibility for determining contemporaneousness, ceding this duty to Congress under the political question doctrine.²⁷⁹ Yet in India the nonentrenchment of the distinction between amendment and revision has not precluded its emergence. The 275. Judicial review of constitutional amendments may be procedural or substantive. For a leading analysis on this distinction as well as the difficulty of identifying the line separating procedure from substance, see generally KEMAL **GOZLER**, JUDICIAL REVIEW OF CONSTITUTIONAL AMENDMENTS: A COMPARATIVE STUDY (2008) (inquiring into the practice

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, the Court held that it was "impossible" to review constitutional amendments for substance and 317. Id.; KEMAL **GOZLER**, JUDICIAL REVIEW OF CONSTITUTIONAL AMENDMENTS: A COMPARATIVE STUDY 42-43 (2008). 318. E. 1973/19, K. 1975/87 (Turk.). 319. See, e.g., Anayasa Mahkemesi [Constitutional Court], Esas No. 1976/38, Karar No. 1976/46 (Turk.); Anayasa Mahkemesi [Constitutional Court], Esas No. 1976/43, Karar No. 1977/4 (Turk.); Anayasa Mahkemesi [Constitutional Court], Esas No. 1977/82, Karar No. 1977/117 (Turk.). 320. ANA. art. 148 (Turk.) ("Constitutional amendments shall be examined and verified

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Unconstitutional Constitutional Amendments (Chicago Public Law and Legal Theory Working Paper No. 349), available at <http://ssrn.com/abstract=1840963>. 30. India is not the only judiciary to have developed a basic structure doctrine. High courts in other countries, including Germany, South Africa, Turkey, Israel, Colombia, and Brazil have developed and applied similar doctrinal approaches allowing for judicial review of the constitutionality of amendments. See Kemal **Gozler**, *Judicial Review of Constitutional Amendments: A Comparative Study* 52-53 (2008); Jackson, *supra* note 29; Richard Albert

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