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**Unconstitutional constitutional amendments—the migration and success of a constitutional idea**  
Y Roznai - *The American Journal of Comparative Law*, 2013 - academic.oup.com

Can a constitutional amendment be unconstitutional? Prima facie, this seems like a paradox. This vexing issue has attracted increased attention in recent years. Whereas the definition of the nature of constitutional amendment power is among the most abstract questions of ...

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**Unconstitutional constitutional amendments**  
A Barak - *Israel Law Review*, 2011 - cambridge.org

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[The structure of constitutional amendment rules](#)  
R Albert - *Wake Forest L. Rev.*, 2014 - HeinOnline

Formal constitutional amendment rules are the gatekeepers to the constitutional text. They detail the procedures for changing the written constitution, specify what is subject to or immune from formal amendment, 2 promote deliberation about constitutional meaning, 3 ...

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M De Visser - 2013 - books.google.com

Constitutions serve to delineate state powers and enshrine basic rights. Such matters are hardly uncontroversial, but perhaps even more controversial are the questions of who (should) uphold (s) the Constitution and how constitutional review is organised. These two ...

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[\[BOOK\] Constitution-making: process and substance](#)  
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It was part of the foundational myth of ancient constitutions that they were given by a wise man—legislator, like Lycurgus in the case of Sparta, worthy of hero worship by posterity. Though these ancient constitutions were often subject to fundamental changes, in principle ...

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[Amending constitutional amendment rules](#)  
R Albert - *International Journal of Constitutional Law*, 2015 - academic.oup.com

No part of a constitution is more important than the rules that govern its amendment. Given the important functions served by formal constitutional amendment rules, we might expect constitutional designers to entrench them against ordinary amendment, for instance by ...

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[Constitutions and constitutionalism](#)  
S Holmes - *The Oxford Handbook of Comparative Constitutional ...*, 2012 - books.google.com

Democratic theory conventionally defines a constitution as a 'higher law' that cannot be changed through normal lawmaking procedures in a popularly elected assembly. Exceptional legal entrenchment is said to insulate constitutional rules from the majoritarian ...

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Starting with the historical development of constitutional government in Turkey, the author analyzes the basic characteristics of the present Turkish Constitution (that of 1982), the fundamental structure of the state (the legislature, executive, and the judiciary), the special ...

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[The Theory and Practice of 'Supra-Constitutional' Limits on Constitutional Amendments](#)  
Y Roznai - *International & Comparative Law Quarterly*, 2013 - cambridge.org

This article examines whether there are any limitations on constitutional amendment powers that are external to the constitutional system and above it—'supra-constitutional' limits. It considers the theory and practice of the relationship between natural law, international law ...

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[External Review of Constitutional Amendments? International Law as a Norm of Reference](#)  
[L Garlicki, ZA Garlicka - Israel Law Review, 2011 - cambridge.org](#)

This article is built around three general observations. The first is that, in the current stage of the development of constitutional theory and practice, there is a need to create procedures allowing the review of constitutional amendments. The second is that traditional ...

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[18. The rise of weak-form judicial review](#)  
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Constitutional review, known in the United States as 'judicial review', originated in the United States. It took the form of a practice in which upon finding a statute inconsistent with constitutional norms a court gave the statute no legal effect in the case at hand and, because ...

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[Legisprudence Limitations on Constitutional Amendments: Reflections on the Czech Constitutional Court's Declaration of Unconstitutional Constitutional Act](#)  
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Can a constitutional norm be unconstitutional? This idea seems, at first sight as a self-contradiction. Unconstitutionality is commonly referred to those ordinary laws, inferior to the constitution, which violate it. Constitutional norms, in contrast, carry an equal normative ...

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[The Eternal Territory? The Crimean Crisis and Ukraine's Territorial Integrity as an Unamendable Constitutional Principle](#)  
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This article reflects on the protection of territorial integrity in the Ukrainian constitution, especially on its provision of unamendability, against the backdrop of the 2014 Crimean crisis. At the general level, we examine whether constitutional theory can offer answers ...

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[A new typology of judicial review of legislation](#)  
[JI Colón-Ríos - Global Constitutionalism, 2014 - cambridge.org](#)

The distinction between strong and weak judicial review occupies a privileged place in comparative constitutional law. This article argues that it is necessary to generate a new typology that includes two other increasingly influential models. The two 'new' models can be ...

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[\[PDF\] Ensuring constitutional efficacy](#)  
[J Kokott, M Kaspar - The Oxford Handbook of Comparative ..., 2012 - academia.edu](#)

This article provides an introduction to the basic institutional features of constitutional courts (CCs), as well as an overview of the small but growing comparative literature on their design, function, impact, and legitimacy. It presents the CC as an ideal type, with its own ...

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[State constitutions and the basic structure doctrine](#)  
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Across the United States, voters in many states have enacted initiative constitutional amendments that abrogate protections for equality and fundamental rights. In most cases, state supreme courts have upheld the validity of these amendments, undermining protections for fundamental rights ...

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[Judicial review of constitutional amendments and new constitutions in comparative perspective](#)  
G Halmi - *Wake Forest L. Rev.*, 2015 - HeinOnline

This Article examines the legitimacy of judicial review of the merits of proposed new constitutions and constitutional amendments. But we first have to deal with a preliminary question: Are constitution-making and constitutional-amending organs subject to any ...

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[On the Nexus of Eternity Clauses, Proportional Representation, and Banned Political Parties](#)  
R Weill - *Election Law Journal: Rules, Politics, and Policy*, 2017 - liebertpub.com

Constitutional democracies do not usually tie their choice of proportional election with the need to counterbalance this choice by adopting either bans on extremist political parties or the "unconstitutional constitutional amendment" doctrine. Nor do scholars offer countries a ...

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[Unconstitutional constitutional amendments in European Union law: Considering the existence of substantive constraints on treaty revision](#)  
R Passchier, M Stremmer - 2016 - elgaronline.com

The issue of unconstitutional constitutional amendments is extremely topical in the field of national and comparative constitutional law. In a recent article (2013), Roznai signals that 'the global trend is moving towards accepting the idea of limitations—explicit or implicit—on ...

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[Israel: Creating a Constitution—The Use of Foreign Precedents by the Supreme Court \(1994-2010\)](#)  
S Navot - *SUZIE NAVOT the Use of Foreign Precedents by the ...*, 2014 - papers.ssrn.com

This chapter is the Israeli contribution to a comparative project on the citation of foreign precedents in constitutional adjudication. This project brings together constitutional law scholars from different states and different legal systems to deal with the use of foreign law ...

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[Necrocracy or Democracy? Assessing Objections to Constitutional Unamendability](#)  
Y Roznai - *An Unamendable Constitution?*, 2018 - Springer

Unamendability is a growing trend in global constitutionalism. Yet, unamendability, as a constitutional mechanism, raises various challenges and objections. Mainly, by perpetuating certain constitutional rules, values and institutions, unamendability exacerbates the 'dead ...

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[How Do Types of Procedure Affect the Degree of Politicization of European Constitutional Courts-A Comparative Study of Germany, Bulgaria, and Portugal](#)  
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Do different types of procedure affect the degree of politicization of constitutional courts in European democracies? We argue that they do and we find evidence that supports this assumption in our analysis of the German, Bulgarian and Portuguese courts. We show that ...

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[Reformas Inconstitucionales a la Constitución: ¿ un caso agravado de la tensión entre la democracia y el constitucionalismo?](#)  
JGG Albarello - *Análisis Político*, 2012 - revistas.unal.edu.co

La imposición de límites sustantivos, no meramente procedimentales, a las reformas constitucionales puede considerarse como un caso agravado de la tensión entre la democracia y el constitucionalismo. Este artículo muestra que esos límites son hoy una ...

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Конституция любого политически организованного сообщества призвана определять правовой порядок его существования на основе зафиксированных ею ценностей. Базовые ценности конституционного демократического государства нуждаются в ...

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[The Hegemonic Preservation Thesis Revisited: The Example of Turkey](#)  
[G Seven, L Vinx - Hague Journal on the Rule of Law, 2017 - Springer](#)

This paper offers a critical rereading of the history of judicial review of constitutional amendments in Turkey. We argue that, contrary to appearances, the claim to a power of amendment review on the part of the Turkish Constitutional Court does not fit Ran Hirschl's ...

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[Judicial Supremacy in Comparative Constitutional Law](#)  
[M Mate - Tul. L. Rev., 2017 - HeinOnline](#)

Debates over judicial supremacy are not limited to the United States, and the concept of judicial supremacy is contested in politics worldwide. However, public law scholars studying judicial supremacy globally have largely taken a US-and Western-centric approach in ...

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[From an unconstitutional constitutional amendment to an unconstitutional constitution? Lessons from Honduras](#)  
[DE Landau, R Dixon, Y Roznai - Global Constitutionalism, 2019 - cambridge.org](#)

The unconstitutional constitutional amendment doctrine has emerged as a highly successful, albeit still controversial, export in comparative constitutional law. The doctrine has often been defended as protecting a delegation from the people to the political institutions that ...

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[Entrenchment Illusion: The Curious Case of Egypt's Constitutional Entrenchment Clause](#)  
[M Abdelaal - Chi.-Kent J. Int'l & Comp. L., 2016 - HeinOnline](#)

Constitutional architects usually include in constitutional texts an unamendable clause known as constitutional entrenchment. A constitutional entrenchment serves different purposes such as, shielding and preserving high valued constitutional norms and distancing ...

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[The Potentially Unamendable State Constitutional Core](#)  
[L Friedman - Ark. L. Rev., 2016 - HeinOnline](#)

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[Impeding constitutional amendments: why are entrenchment clauses codified in contemporary constitutions?](#)  
[M Hein - Acta Politica, 2019 - Springer](#)

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긴급조치 및 유신헌법 제 53 조의 위헌여부에 대한 헌법소원심판이 헌법재판소에 청구되어, 헌법재판소는 헌법의 개별조항에 대한 위헌심사를 부정하여 온 종래의 입장을 계속 유지할 것인지, 특히 과거청산의 대상이라고 할 수 있는 유신헌법에 대해서까지도 사법심사를 회피할 ...

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Do Member States of the EU have a free hand in drafting Accession Treaties, or are there legal constraints on their primary law making function in this context? That is the central question this thesis addresses. It argues that such constraints do exist, and tries to identify ...

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[Constitutional protection of the head of state: The case of Kosovo](#)  
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This paper clarifies the role and position of the Head of State from a comparative perspective, as well as the protection of that institution from an extra constitutional dismissal via constitutional amendment. Its starting point was the exercise by the Constitutional Court ...

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Many modern constitutions today contain what is called eternity clauses (also known as constitutional entrenchment), which make one or more constitutional provisions unamendable. The Constitution of the People's Republic of Bangladesh (hereafter 'the ...

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Although it has not been constitutionally empowered to do so, the Turkish Constitutional Court has exercised substantive review of constitutional amendments under three different constitutional settings, striking down amendments to the normally amendable provisions of ...

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There is a growing scholarly interest in the issue of unconstitutional constitutional amendments. Generally speaking, this issue concerns whether there should be some limits to constitutional amendments and whether courts should control those limits. In this sense ...

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When defining the content of essential elements of a democratic Rechtsstaat/rule of law, it is necessary to take into account in particular the fact that this concept plays five possible roles in the constitutional system of the Czech Republic: the eternity clause, the frame of reference ...

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Y Roznai - HeinOnline

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This article focuses on the adoption of temporary measures within the generally rigid constitutional sphere. Commentators frequently contemplate the extent to which temporary constitutional measures are adequate and necessary within a constitution that is meant to be ...

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Judicial review and constitutional entrenchment are often held to be illegitimate from the point of view of democratic theory (Waldron 2006; Bellamy 2007). This worry, it would appear, must intensify where judicial review is practised on the basis of strong constitutional ...

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This decision was a complete surprise. 5 Although it was highly controversial among both politicians and legal observers, it was nevertheless eagerly accepted by the political elite. This was probably caused by the fact that the three-fifths majority requirement had caused a ...

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