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Study of Jinayah Fiqh and Indonesian Criminal Law**

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Muhammad Syafi'i, Abdullah, Muslibun, Mutawali & Husna Jamaludin

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Constitutional Amendments in Muslim-Majority States: The Case of Indonesia and its Islamic Peers

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Abstract

Muslim-majority countries face unique challenges in managing constitutional change because of complex interaction between religion, politics, and law. Formal and informal constitutional amendments occur through legal procedures and judicial interpretation, political practice, and social norms, respectively. This study analyzes the dynamics of these amendments in Muslim-majority countries, focusing on Indonesia, Turkey, Egypt, and Pakistan. The research method used here adopts a



normative juridical approach with a comparative approach. Reportedly, Indonesia stands out with a combination of formal *amendments*, such as the reform of the 1945 Constitution, and informal changes through the Constitutional Court, creating a stable and flexible legal system. In contrast, Egypt and Pakistan show that the pressure of political crises and the influence of the military often hinder the sustainability of formal reforms, although informal change remains an adaptation mechanism. These findings highlight the importance of the social and political context in shaping the path of constitutional change and indicate that informal change can serve as an adaptation tool without the need for legal text revision. The novelty of this study is its simultaneous focus on formal and informal amendments in the Muslim-majority countries, offering a contribution to the literature on global constitutionalism by explaining how informal mechanisms can complement formal reform.

KEYWORDS: *Constitutional amendment; Constitutionalism; Formal and informal; Legal system; Politics*

Abstrak

Negara-negara dengan mayoritas Muslim menghadapi tantangan unik dalam mengelola perubahan konstitusional akibat interaksi yang kompleks antara agama, politik, dan hukum. Perubahan konstitusional formal sering kali terstruktur melalui prosedur hukum, sementara perubahan informal terjadi melalui interpretasi yudisial, praktik politik, dan norma sosial. Penelitian ini menganalisis dinamika amandemen konstitusi formal dan informal di negara-negara mayoritas Muslim, dengan fokus pada Indonesia, Turki, Mesir, dan Pakistan. Metode penelitian mengadopsi yuridis normative dengan pendekatan komparatif. Penelitian ini menemukan bahwa Indonesia menonjol dengan kombinasi perubahan formal, seperti reformasi Undang-undang Dasar 1945, dan perubahan informal melalui peran Mahkamah Konstitusi, dengan menciptakan sistem hukum yang stabil dan fleksibel. Sebaliknya, Mesir dan Pakistan menunjukkan bahwa tekanan krisis politik dan pengaruh militer menghambat keberlanjutan reformasi formal, meskipun perubahan informal tetap menjadi mekanisme adaptasi. Temuan ini menyoroti pentingnya konteks sosial dan politik dalam membentuk jalur perubahan konstitusional, serta menunjukkan bahwa perubahan informal dapat berfungsi sebagai alat adaptasi tanpa revisi teks hukum. Kebaruan penelitian ini terletak pada fokus simultannya terhadap amandemen formal dan informal dalam konteks negara-negara mayoritas Muslim, yang menawarkan kontribusi pada literatur konstitusionalisme global dengan menjelaskan bagaimana mekanisme informal dapat melengkapi perubahan formal.

KATA KUNCI: *Amandemen konstitusi; Formal-Informal; Konstitusionalisme; Politik; Sistem hukum*

Introduction

The constitution primarily regulates the relationship between the state and society.³⁶³ This is especially true for Muslim-majority countries. The constitution has a dual function in such countries: as a legal foundation for a modern government structure and as a tool to accommodate Islamic values in the national legal system.³⁶⁴ The integration of sharia and modern legal principles was needed to maintain a balance between adherence to religious values and the pragmatic needs of a pluralistic system of governance.³⁶⁵ This phenomenon emphasizes the study of constitutional change in Muslim-majority countries because it reflects how these countries navigate their political, religious, and social dynamics.

As the largest democracy with a Muslim population, Indonesia provides a unique example of reconciling modern democratic principles with religious pluralism.³⁶⁶ Indonesia's constitution was designed to accommodate religious and cultural diversity and respond to contemporary political challenges. In recent decades, Indonesia has undertaken some formal constitutional amendments, particularly after the political reforms of 1999–2002. However, through political practice and

³⁶³ Fatkhurohman Fatkhurohman, Sirajuddin Sirajuddin, and Sholahudin Al Fatih, "Facing Digital Age: Should the Regional Regulation Be Made Digitally?," *Jambura Law Review* 7, no. 1 (December 7, 2024): 1–29, <https://doi.org/10.33756/jlr.v7i1.27111>.

³⁶⁴ Imran Ahmed, "Writing Islamic Constitutions: Lessons from Pakistan," *The Round Table* 107, no. 3 (May 4, 2018): 317–28, <https://doi.org/10.1080/00358533.2018.1476091>; Malika Zeghal, *The Making of the Modern Muslim State: Islam and Governance in the Middle East and North Africa*, Princeton Studies in Muslim Politics (Princeton Oxford: Princeton University Press, 2024).

³⁶⁵ Adnan Trakic and Hanifah Haydar Ali Tajuddin, eds., *Islamic Law in Malaysia: The Challenges of Implementation* (Singapore: Springer Singapore, 2021), <https://doi.org/10.1007/978-981-33-6187-4>.

³⁶⁶ Romi Adetio Setiawan, "Impact of Islamic Jurisprudential on Traditional Financial Customs and Legal Integration in Indonesia," *Journal of Islamic Thought and Civilization* 13, no. 2 (December 6, 2023): 195–209, <https://doi.org/10.32350/jitc.132.13>.

jurisprudence, informal constitutional changes have remarkably contributed to the flexibility of the country's constitutional system.³⁶⁷

Comparisons with other Muslim-majority countries, such as Turkey, Egypt, and Pakistan, offer additional perspectives enriching the analysis. Each country adopts a different approach to constitutional change. For instance, Turkey stands out with its strict secular model,³⁶⁸ whereas Egypt³⁶⁹ and Pakistan³⁷⁰ have a more explicit relationship with Islamic principles. This study highlights the need to understand how formal and informal mechanisms of change operate in different contexts, including the implications for political stability and the rule of law. In managing constitutional change, Muslim-majority countries face notable challenges, particularly in balancing religious principles and modern political dynamics. This challenge arises because constitutions in these countries often face pressure from two directions: conservatives intending to strengthen Islamic values and progressives favoring a secular or pluralistic approach.³⁷¹ Constitutional change—formal and informal—is often the arena in which these dynamics.³⁷²

³⁶⁷ Donald L. Horowitz, *Constitutional Change and Democracy in Indonesia*, Problems of International Politics (Cambridge: Cambridge University Press, 2013); Usman Rasyid et al., "Reformulation of the Authority of Judicial Commission: Safeguarding the Future of Indonesian Judicial Power," *Jambura Law Review* 5, no. 2 (July 31, 2023): 386–413, <https://doi.org/10.33756/jlr.v5i2.24239>.

³⁶⁸ (Karakuş & Koç, 2022; Olcay, 2018; Roznai & Yolcu, 2012).

³⁶⁹ Dawood Ahmed and Muhammad Zubair Abbasi, *Democracy under God: Constitutions, Islam and Human Rights in the Muslim World*, 1st ed. (Cambridge: Cambridge University Press, 2023), <https://doi.org/10.1017/9781316662618>; Karakuş and Koç, "Social and Political Foundations of Constitutionalism in the Middle East."

³⁷⁰ Ahmed, "Writing Islamic Constitutions"; Mohammad Waseem, "Islamic Constitutionalism in Pakistan," *Arab Law Quarterly* 38, no. 4 (June 20, 2024): 446–65, <https://doi.org/10.1163/15730255-bja10165>.

³⁷¹ Trakic and Haydar Ali Tajuddin, *Islamic Law in Malaysia*.

³⁷² Richard Albert, *Constitutional Amendments: Making, Breaking, and Changing Constitutions* (New York: Oxford University Press, 2019); Manon Altwegg-Boussac, "Informal Constitutional Change and Political Law," in *The Political Dimension of Constitutional Law*, ed. Miguel Nogueira De Brito and Luís Pereira Coutinho (Cham: Springer International Publishing, 2020), 91–104, https://doi.org/10.1007/978-3-030-38459-3_6; Stefanus Hendrianto, "The Indonesian Constitutional Court and Informal Constitutional Change," in *Constitutional Democracy in Indonesia*, ed. Melissa Crouch, 1st ed. (Oxford: Oxford University Press, 2022), 219–40, <https://doi.org/10.1093/oso/9780192870681.003.0011>.

In Indonesia, this dynamic is complex because of its high religious and cultural pluralism. Although Indonesia is not an Islamic state, its political and legal processes³⁷³ are strongly influenced by Islamic values. This contrasts with countries such as Turkey, which constitutionally affirms secularism³⁷⁴, or Egypt, where Islam is the primary source of legislation.³⁷⁵ The issue at hand is how constitutional amendments can accommodate pluralism while maintaining a legal identity responsive to Islamic values.

Although the scholarship on constitutionalism in Muslim-majority countries is growing, it remains heavily weighted toward the formal mechanisms of constitutional change—legal texts, parliamentary procedures, and judicial frameworks. Jurdi and Yani (2023) focused on nonformal change through judicial interpretation; however, they often treated these as isolated theoretical dilemmas rather than systemic phenomena with long-term political consequences.³⁷⁶ Similarly, Ahmad (2019)³⁷⁷ emphasized internal Indonesian constitutional dynamics, including elite negotiation and judicial participation, but not how these informal mechanisms compare cross-nationally within other Islamic democracies. In addition, literature predominantly treats Indonesia's informal constitutionalism as a reflection of political compromise, without dissecting its structural role in shaping constitutional flexibility or legal stability.

³⁷³ A.H. Asari Taufiqurrohman et al., "The Role of Islamic Law, Constitution, and Culture in Democracy in the UAE and Indonesia," *AHKAM: Jurnal Ilmu Syariah* 24, no. 1 (June 30, 2024), <https://doi.org/10.15408/ajis.v24i1.33155>.

³⁷⁴ Olcay, "The Unamendability of Amendable Clauses"; Roznai and Yolcu, "An Unconstitutional Constitutional Amendment--the Turkish Perspective."

³⁷⁵ Dawood Ahmed and Muhammad Zubair Abbasi, *Democracy Under God: Constitutions, Islam and Human Rights in the Muslim World*, 1st ed. (Cambridge: Cambridge University Press, 2023), <https://doi.org/10.1017/9781316662618>.

³⁷⁶ Fajlurrahman Jurdi and Ahmad Yani, "Legitimacy of Non-Formal Constitutional Reforms and Restrictions on Constitutionalism: Legitimasi Perubahan Konstitusi Non-Formal Dan Pembatasannya Dalam Paham Konstitusionalisme," *Jurnal Konstitusi* 20, no. 2 (June 1, 2023): 238–56, <https://doi.org/10.31078/jk2024>.

³⁷⁷ Ahmad and Novendri M. Nggilu, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution," *Jurnal Konstitusi* 16, no. 4 (2019).

This study fills three critical gaps in the current literature. First, it bridges the gap between the formal and informal mechanisms of constitutional change by examining how both mechanisms operate simultaneously in practice, a synthesis that has been underexplored in previous studies such as Siradjuddin et al.'s (2021) that framed political influence and law as inseparable yet failed to interrogate their institutional interaction across cases.³⁷⁸ Second, this study overcomes the siloed nature of existing case studies that rarely go beyond single-country analysis by employing a comparative framework involving Indonesia, Turkey, Egypt, and Pakistan. Third, it investigates how cultural, religious, and political factors shape formal and informal amendments—moving beyond proceduralism toward a contextual understanding of constitutional change. Through this approach, the study provides a nuanced mapping of legal transformation in Muslim-majority contexts and offers practical insights into how hybrid amendment systems can either reinforce or undermine constitutional resilience.

This research aims to answer the following question: how does the constitutional amendment process in Indonesia compare with other Muslim-majority countries? This study explores how formal and informal amendments affect the stability and flexibility of the legal system through legislative mechanisms and political practices. This issue is academically and practically relevant because it offers insights into how Muslim-majority countries can inclusively and sustainably manage constitutional change. The main objective of this research was to analyze and compare the formal and informal constitutional amendment processes in Indonesia with those in other Muslim-majority countries. This research focuses on procedural differences and how political, cultural, and religious contexts influence these mechanisms.

³⁷⁸ Sonia Ivana Barus, "Proses Perubahan Mendasar Konstitusi Indonesia Pra Dan Pasca Amandemen," *University Of Bengkulu Law Journal* 2, no. 1 (April 22, 2017): 29–55, <https://doi.org/10.33369/ubelaj.2.1.29-55>.

This study aims to identify the common patterns and unique factors that influence constitutional change in Indonesia. Using a comparative approach, this study explores the differences and similarities between Indonesia's pluralistic democratic model and other constitutional models in the Islamic world, such as Turkey, Egypt, and Pakistan. This analysis intends to provide a deep understanding of the influence of the local context on the design and implementation of constitutional change. This research can serve as a guide for other Muslim-majority countries facing similar challenges by understanding how formal and informal changes affect legal and political stability. This is also relevant in the current global context, wherein political reform pressures often intersect with religious and cultural dynamics.

The novelty of this study lies in its simultaneous focus on formal and informal constitutional amendments, which, to our knowledge, is rarely discussed in detail in the existing literature. This approach allows for a holistic analysis of the constitutional dynamics in Muslim-majority countries, combining procedural and substantive dimensions. In addition, this research comparatively covers Indonesia and several other Islamic countries, offering insight into variations in constitutional change practice. Further, the justification for this research lies in its relevance to the global challenges faced by Muslim-majority countries. With increasing pressure for political and legal reform, this research provides valuable guidance on how these countries can effectively manage constitutional change. Moreover, the research makes an important contribution to the academic discussion on the relationship between religion, law, and politics, an increasingly relevant theme in the present global context.

Methods

This study employs a normative juridical method that combines statutory and comparative approaches.³⁷⁹ The former examines the legal

³⁷⁹ Irwansyah Irwansyah, *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel* (Yogyakarta: Mirra Buana Media, 2020).

mechanisms governing constitutional amendments in Muslim-majority states, primarily focusing on Indonesia and comparative analysis of Egypt, Turkey, and Pakistan. The latter is applied to explore the similarities and differences in formal and informal constitutional changes across these countries, highlighting the interaction between legal frameworks, political dynamics, and socioreligious contexts.

The research relies on primary, secondary, and tertiary legal materials, including constitutional texts, judicial decisions, legislative documents, and relevant academic literature, collected from various sources.³⁸⁰ These materials are systematically analyzed and presented prescriptively to identify the dynamics of constitutional amendments and the role of legal and political actors in shaping the reform process. By integrating these approaches, this study contributes to the discourse on global constitutionalism by demonstrating how informal mechanisms can serve as adaptive instruments within evolving legal systems in Muslim-majority states.

Discussion

A Comparative Approach to Constitutional Amendments

Constitutional amendments have two main dimensions that influence the development of legal systems: formal and informal.³⁸¹ Formal amendment refers to the process of changing the constitutional text per procedures established by the country's basic law.³⁸² In contrast, informal amendments involve changes in how the constitution is interpreted or implemented, often through the courts, political practices, and/or social

³⁸⁰ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2005).

³⁸¹ Rehan Abeyratne and Ngoc Son Bui, eds., *The Law and Politics of Unconstitutional Constitutional Amendments in Asia*, Comparative Constitutional Change (New York, NY: Routledge, 2021); Altwegg-Boussac, "Informal Constitutional Change and Political Law," 2020; Yaniv Roznai, "The Uses and Abuses of Constitutional Unamendability," in *Routledge Handbook of Comparative Constitutional Change*, ed. Xenophōn I. Kontiadēs and Alkmēnē Phōtiadou, Routledge Handbooks (New York, NY: Routledge, Taylor & Francis Group, 2021).

³⁸² Albert, *Constitutional Amendments*.

norms, without a revision of its text.³⁸³ Both amendments are crucial to understanding how Muslim-majority countries adapt their constitutional systems to social, political, and religious changes.³⁸⁴

A comparative approach is an important tool for analyzing the differences and similarities in the amendment mechanisms in various Muslim-majority countries. With its pluralistic approach, Indonesia shows unique flexibility in its constitution in accommodating religious and cultural pluralism.³⁸⁵ In contrast, a country like Turkey stands out with its secular tradition, often conflicting with the drive to integrate Islamic values in the legal system.³⁸⁶ However, Egypt and Pakistan illustrate how Islamic principles can be explicitly integrated into modern constitutions.³⁸⁷ This approach also allows for an in-depth analysis of the factors influencing the success or failure of constitutional change in these countries. For example, political factors such as government stability or pressure from community groups are often key drivers of formal and informal change.³⁸⁸ Religion is often a considerable differentiating factor in

³⁸³ Joel I. Colón-Ríos, *Constituent Power and the Law*, First edition, Oxford Constitutional Theory (Oxford New York, NY: Oxford University Press, 2020); Xenophōn I. Kontiadēs and Alkmēnē Phōtiadou, eds., *Routledge Handbook of Comparative Constitutional Change*, Routledge Handbooks (New York, NY: Routledge, Taylor & Francis Group, 2021).

³⁸⁴ Ahmed, "Writing Islamic Constitutions"; Moamen Gouda and Jerg Gutmann, "Islamic Constitutions and Religious Minorities," *Public Choice* 186, no. 3-4 (March 2021): 243-65, <https://doi.org/10.1007/s11127-019-00748-7>.

³⁸⁵ Bambang Hartono, "The Value of Pancasila as an Ideological Based for the Development of the Legal System in Indonesia," *International Journal of Law and Politics Studies* 6, no. 4 (August 1, 2024): 50-56, <https://doi.org/10.32996/ijlps.2024.6.4.6>; Taufiqurrohman et al., "The Role of Islamic Law, Constitution, and Culture in Democracy in the UAE and Indonesia."

³⁸⁶ Mohd Roslan Mohd Nor and Muhammad Khalis Ibrahim, "From Separation Between State and Religion to Religion-Freeing State: The Changing Faces of Secularism in Turkey," *Indonesian Journal of Islam and Muslim Societies* 13, no. 1 (June 5, 2023): 85-114, <https://doi.org/10.18326/ijims.v13i1.85-114>.

³⁸⁷ Ahmed and Abbasi, *Democracy under God*; Asif Mohiuddin, "Islam, Religious Authority and The State: The Case of Egypt," *Asian Journal of Middle Eastern and Islamic Studies* 16, no. 2 (April 3, 2022): 165-88, <https://doi.org/10.1080/25765949.2022.2097730>; PTE ÁJK and Amna Hassan, "The Shariah Law in Pakistani Legal System and General Legal Status of Women in Pakistan," *DÍKÉ* 4, no. 1 (September 1, 2020): 190-210, <https://doi.org/10.15170/DIKE.2020.04.01.13>; Waseem, "Islamic Constitutionalism in Pakistan."

³⁸⁸ Albert, *Constitutional Amendments*; Oran Doyle and Rachael Walsh, "Constitutional Amendment and Public Will Formation: Deliberative Mini-Publics as a

Muslim-majority countries, influencing the content of change and the processes used to achieve it.³⁸⁹

Methodologically, the comparative approach identifies emerging patterns of the interaction between religion, politics, and law in Muslim-majority countries. This enables a broader analysis of how these dynamics affect constitutional stability and flexibility. Contextually, the comparative approach compares legal systems and comprehends the complex interactions between actors and factors in the change process. However, this approach faces encounters challenges, including difficulties in generalizing findings among countries with different political and social histories. For example, although Indonesia has successfully managed religious pluralism in informal change,³⁹⁰ this experience is not completely applicable to countries such as Egypt, where religious and state dynamics are much more polarized.³⁹¹ This highlights the importance of considering the local context in the comparative analysis.

A comparative approach to formal and informal amendments offers a holistic perspective, encompassing procedural and substantive dimensions. This study contributes to the literature on constitutionalism in the Islamic world by understanding variations in this process while providing practical insights into how Muslim-majority states can navigate the challenges of legal modernization without losing their religious identity.

Tool for Consensus Democracy,” *International Journal of Constitutional Law* 20, no. 1 (July 27, 2022): 398–427, <https://doi.org/10.1093/icon/moac013>.

³⁸⁹ Gouda and Gutmann, “Islamic Constitutions and Religious Minorities”; Moamen Gouda and Shima Hanafy, “Islamic Constitutions and Democracy,” *Political Research Quarterly* 75, no. 4 (December 2022): 994–1005, <https://doi.org/10.1177/1065912921991241>.

³⁹⁰ Manunggal K. Wardaya, “Perubahan Konstitusi Melalui Putusan MK: Telaah Atas Putusan Nomor 138/PUU-VII/2009,” *Jurnal Konstitusi* 7, no. 2 (May 20, 2016): 019, <https://doi.org/10.31078/jk722>.

³⁹¹ Karakuş and Koç, “Social and Political Foundations of Constitutionalism in the Middle East”; Mohiuddin, “Islam, Religious Authority and The State”; Khan Sarifuzzaman, “The Role of Political Islam in Egyptian Democratic Experience,” *Journal of Social and Political Sciences* 2, no. 3 (September 30, 2019), <https://doi.org/10.31014/aior.1991.02.03.92>.

Constitutional Amendments in Indonesia

Since the 1998 reform era, Indonesia's constitution has undergone substantial transformation. The four stages of amendments to the 1945 Constitution between 1999 and 2002 reflected the state's response to demands for democratization and institutional reform.³⁹² These amendments cover important issues such as presidential term limits, strengthening human rights, power decentralization, and reforming the electoral system.³⁹³ These measures demonstrate how formal amendments can be used to respond to political and social demands in a pluralistic country like Indonesia.

In Indonesia, the formal process of amendment is strictly regulated by involving the People's Consultative Assembly.³⁹⁴ The formal constitutional amendment should produce a constitution with strong legitimacy by requiring a majority quorum. The constitutional amendment resulted in a constitution relevant for strengthening the fundamental rights of citizens, separating powers, and democracy.³⁹⁵ However, it recorded weaknesses criticized by many, as described by the Constitutional Commission in 2003.

Meanwhile, informal changes have played an important role in shaping Indonesia's constitutional dynamics. The Constitutional Court, established because of the amendment, has become a key institution in interpreting the 1945 Constitution. For example, in Constitutional Court Decision No. 138/PUU-VII/2009, the Constitutional Court interpreted that Regulations in Lieu of Laws could be the domain of authority of the Constitutional Court for review. Considerably, the Constitutional Court

³⁹² Rasyid et al., "Reformulation of the Authority of Judicial Commission."

³⁹³ Ibid.; Dicky Eko Prasetyo, Muh. Ali Masnun, and Noviyanti Noviyanti, "Post-Election Reconciliation in 2024 as a Constitutional Convention in Indonesia: A Progressive Legal Culture Perspective," *Jambura Law Review* 7, no. 1 (January 31, 2025): 176–96, <https://doi.org/10.33756/jlr.v7i1.26999>.

³⁹⁴ Tri Sulistyowati, Ali Ridho, and M Imam Nasef, "Constitutional Compliance Solution to Law Testing Rulings in the Constitutional Court," *Jambura Law Review* 3 (May 1, 2021): 117–34, <https://doi.org/10.33756/jlr.v3i0.10735>.

³⁹⁵ Donald L. Horowitz, *Constitutional Change and Democracy in Indonesia*, Problems of International Politics (Cambridge [England], New York: Cambridge University Press, 2013).

emphasized that the position of Government Regulation in Lieu of Law as stipulated in Article 7 paragraph (1) of Law Number 10/2004 on the Establishment of Laws and Regulations places Perpu at the same level and position as the law.³⁹⁶ Thus, the Constitutional Court argues that its authority to review Perpu agrees with that to review laws. This decision notably clarifies the position of Perpu in the Indonesian legal system and becomes an important source of jurisprudence in the settlement of cases to review laws and Perpu in the Constitutional Court. This decision provides a clearer legal framework regarding the judicial review of Government Regulation in Lieu of Law, which can strengthen the principle of checks and balances in the Indonesian rule of law. The decisions of the Constitutional Court have in some cases strengthened basic constitutional principles, even without explicit changes to the constitutional text. This role demonstrates how informal changes can complement formal amendments to create a flexible legal system.

The combination of formal and informal change in Indonesia reflects the country's ability to maintain legal stability while remaining flexible despite political challenges. Indonesia has successfully created a system that is responsive to the needs of society and can survive in a changing global context. Indonesia's experience offers important lessons on how Muslim-majority countries can manage the dynamics between religion, politics, and law. By combining formal and informal change, Indonesia has demonstrated that flexibility and stability can be achieved simultaneously—an achievement relevant to other countries with similar characteristics.

Constitutional Amendments in Muslim-Majority Countries

Muslim-majority countries show notable variation in their approaches to constitutional amendments, reflecting differences in each

³⁹⁶ Saldi Isra and Feri Amsari, "Perubahan Konstitusi Melalui Tafsir Hakim," *Jurnal Konstitusi: PUSaKO* 1, no. 1 (2010); Wardaya, "Perubahan Konstitusi Melalui Putusan MK."

country's history, culture, and political dynamics. Constitutional amendments in such countries, whether formal or informal, are often arenas for complex negotiations between Islamic values, democratic principles, and contemporary political needs. For instance, Turkey, Egypt and Pakistan offer different perspectives on how constitutional amendments navigate the relationship between religion and the state.

Turkey stands out with a strong secular tradition, stemming from the legacy of Mustafa Kemal Atatürk since the early 20th century.³⁹⁷ However, Turkey's political dynamics show that secularism is not an obstacle to religious influence in politics. Formal amendments often consolidate political power, such as the transition from parliamentary to presidential system in 2017 under the leadership of Recep Tayyip Erdoğan.³⁹⁸ This process was carried out through national referendums, reflecting the use of legal formal mechanisms influenced by the dominant political agenda.³⁹⁹ Meanwhile, informal changes through the interpretation of the Turkish Constitutional Court is crucial for limiting or expanding the influence of Islam in the public space.⁴⁰⁰

In Egypt, constitutional amendments reflected volatile dynamics because of intense political upheaval.⁴⁰¹ Following the Arab Spring revolutions, Egypt adopted a new constitution in 2012, which was heavily

³⁹⁷ Rustam Izmaylov, Albina Imamutdinova, and Marina Mefodeva, "Laicism in the Republic of Turkey in the 1920-1930s," *Humanities & Social Sciences Reviews* 7, no. 5 (October 20, 2019): 692–95, <https://doi.org/10.18510/hssr.2019.7584>; Udo Steinbach, "The Impact of Atatürk on Turkey's Political Culture Since World War II," in *Atatürk and the Modernization of Turkey*, by Jacob M Landau, ed. Jacob M. Landau, 1st ed. (New York: Routledge, 2019), 77–88, <https://doi.org/10.4324/9780429050213-6>.

³⁹⁸ Agah Hazır, "Narratives on Religion-State Relations in Turkey: Continuities and Discontinuities," *Turkish Studies* 21, no. 4 (August 7, 2020): 557–77, <https://doi.org/10.1080/14683849.2019.1685881>.

³⁹⁹ Olcay, "The Unamendability of Amendable Clauses."

⁴⁰⁰ Roznai and Yolcu, "An Unconstitutional Constitutional Amendment--the Turkish Perspective"; Yaniv Roznai, "The Uses and Abuses of Constitutional Unamendability."

⁴⁰¹ Aliaa Zakaria, Ayman Mohamed Afify, and Moustafa Elmetwaly Kandeel, "Legal Adaptation and Governance of Constitutional Declarations During Transitional Periods," *Corporate Law and Governance Review* 5, no. 2 (2023): 42–55, <https://doi.org/10.22495/clgrv5i2p5>.

influenced by Islamist groups, particularly the Muslim Brotherhood.⁴⁰² This constitution integrated sharia principles explicitly as a cornerstone of law; however, it was amended after the 2013 military coup. Formal amendments under Abdel Fattah el-Sisi emphasized the consolidation of military power and limitation of the influence of Islamist groups.⁴⁰³ However, informal changes continually occur owing to the influence of nonstate groups and conservative interpretations of the law, which are often influenced by social and political pressures.⁴⁰⁴

Pakistan offers a different context, with an explicit influence of sharia in its constitutional system since the country's inception.⁴⁰⁵ Formal amendments, such as the 18th Amendment, strengthen power decentralization and demonstrate how constitutional change addresses domestic political challenges.⁴⁰⁶ However, Sharia Courts in Pakistan play a crucial, influential, and informal role in the interpretation of Islamic law. For example, decisions related to hudud and family laws often demonstrate how informal changes can equally impact as formal ones in shaping the legal framework of the country.⁴⁰⁷

⁴⁰² Rachel M. Scott, "What Might the Muslim Brotherhood Do with Al-Azhar? Religious Authority in Egypt," *Die Welt Des Islams* 52, no. 2 (2012): 131–65, <https://doi.org/10.1163/157006012X641674>.

⁴⁰³ Hager Ali, Salah Ben Hammou, and Jonathan M. Powell, "Between Coups and Election: Constitutional Engineering and Military Entrenchment in Sudan," *Africa Spectrum* 57, no. 3 (December 2022): 327–39, <https://doi.org/10.1177/00020397221136581>; Mohammad Fadel, "Islamic Law and Constitution-Making: The Authoritarian Temptation and the Arab Spring," *Osgoode Hall Law Journal* 53, no. 2 (January 1, 2016): 472–507, <https://doi.org/10.60082/2817-5069.2994>.

⁴⁰⁴ Manon Altwegg-Boussac, "Informal Constitutional Change and Political Law," in *The Political Dimension of Constitutional Law*, ed. Miguel Nogueira De Brito and Luís Pereira Coutinho (Cham: Springer International Publishing, 2020), 91–104, https://doi.org/10.1007/978-3-030-38459-3_6; José Adércio Leite Sampaio, "A Constituição Sob Ataque: Legislativo E Executivo Como Fatores Mutagênicos," *Revista de Estudos Constitucionais, Hermenêutica e Teoria Do Direito* 10, no. 3 (December 30, 2018): 251–63, <https://doi.org/10.4013/rechtd.2018.103.03>.

⁴⁰⁵ Ahmed and Abbasi, *Democracy under God*; Ahmed, "Writing Islamic Constitutions."

⁴⁰⁶ Waseem, "Islamic Constitutionalism in Pakistan."

⁴⁰⁷ Mudrasa Sabreen, "The Judiciary-Led Islamization of Family Law in Pakistan: An Analysis," *Islamic Studies* 59, no. 2 (2020).

A comparison between these three countries reveals similarities in the role of religion as a central element in the constitutional process and reveals ways in which religion is integrated into the legal system. In Turkey, constitutional secularism limits religious influence, although informal interpretations often open space for pro-Islamic practices.⁴⁰⁸ In contrast, Egypt and Pakistan are more likely to explicitly incorporate Islamic principles into their constitutional texts, creating a more polarized dynamic between Islamist and secular groups.⁴⁰⁹

Military involvement in constitutional amendments is a notable differentiating factor. In Turkey, although the military is long known as the guardian of secularism, this role has declined since the political reforms of the early 2000s. Meanwhile, in Egypt, the military remains the dominant actor in directing constitutional change through formal mechanisms and informal pressure. Although the military is not informally involved in amendments in Pakistan, its influence remains remarkable through support for policies that integrate sharia into the legal system.

In addition to the role of the military, judicial actors have a great influence on the constitutional amendment, especially through informal changes. In Turkey, the Constitutional Court has often mediated the conflict between secularism and Islamism,⁴¹⁰ while in Egypt, the courts are more often the arbiters of the conflict between secularism and Islamism and a tool to maintain the authoritarian status quo.⁴¹¹ In Pakistan, the Sharia Court demonstrated how the interpretation of Islamic law can adapt the legal system to religious values without making formal changes

⁴⁰⁸ Hazır, "Narratives on Religion-State Relations in Turkey"; Olcay, "The Unamendability of Amendable Clauses"; Roznai and Yolcu, "An Unconstitutional Constitutional Amendment--the Turkish Perspective."

⁴⁰⁹ Ahmed and Abbasi, *Democracy under God*.

⁴¹⁰ Mohd Nor and Ibrahim, "From Separation Between State and Religion to Religion-Freeing State"; Roznai and Yolcu, "An Unconstitutional Constitutional Amendment--the Turkish Perspective."

⁴¹¹ Mahmoud Hamad, *Judges and Generals in the Making of Modern Egypt: How Institutions Sustain and Undermine Authoritarian Regimes*, 1st ed. (Cambridge: Cambridge University Press, 2018), <https://doi.org/10.1017/9781108559393>.

to the constitutional text.⁴¹² In addition, social dynamics play an important role in shaping formal and informal amendments. For example, in Egypt, pressure from the Islamist society during the 2011 revolution influenced the adoption of more explicit sharia principles in the 2012 constitution.⁴¹³ However, the same pressure led to a military coup in 2013 and eventually to major constitutional revisions. In Pakistan, faith-based social movements often drive informal changes that affect Islamic law policy.⁴¹⁴

Globally, this comparison highlights how local factors—political history, power structures, and social dynamics—shape different pathways for constitutional amendments in Muslim-majority countries. While there are common patterns, such as the central role of religion and the importance of informal interpretations, contextual variations remain a major factor in determining outcomes. This analysis shows that formal and informal amendments cannot be separated in understanding the constitutional dynamics in Muslim-majority countries. Formal changes are often influenced by immediate political factors, whereas informal changes reflect longer-term dynamics in the relationship between the state, religion, and society. By holistically understanding these two dimensions, this research provides rich insights into how Muslim-majority states manage the challenges of integrating religious values into modern legal systems.

Comparison of Formal and Informal Dynamics

A comparison between the formal and informal dynamics of constitutional amendments in Muslim-majority countries provides deep insights into how these countries navigate the relationship between religion, politics, and law. Formal amendments, involving explicit legal

⁴¹² Sabreen, “The Judiciary-Led Islamization of Family Law in Pakistan: An Analysis.”

⁴¹³ Limor Lavie, “The Constitutionalization of the Civil State: The Self-Definition of Egypt, Tunisia and Yemen Following the Arab Uprisings,” *Religions* 12, no. 4 (April 13, 2021): 269, <https://doi.org/10.3390/rel12040269>.

⁴¹⁴ Imran Ahmed and Howard Brasted, “Recognition and Dissent: Constitutional Design and Religious Conflict in Pakistan,” *Journal of Contemporary Asia* 51, no. 2 (March 15, 2021): 351–67, <https://doi.org/10.1080/00472336.2020.1719538>.

procedures such as changes through parliament or referendum, are often used to address structural problems in the legal system.⁴¹⁵ In contrast, informal amendments, occurring through judicial interpretation, political practice, and/or social consensus, reflect the ability of constitutions to adapt to social change without text revision.⁴¹⁶ Both are crucial for creating stability and flexibility in the legal system.

Table 1. Comparison of Constitutional Amendment Dynamics

Country	Formal Amendment Dynamics	Informal Amendment Dynamics	Key Drivers	Religious Influence
Indonesia	Four stages of amendments (1999–2002) through parliamentary procedures to address democratic demands	Constitutional Court interpretations expanding human rights and accommodating pluralism	Parliament, Constitutional Court, and political consensus	Pluralism allows flexibility in informal change
Turkey	Used as a political tool, e.g., shifting from the 2017 referendum to a presidential system	Judicial interpretation balancing secularism with Islamic influence	Executive power, judiciary, and political elites	Secular framework; informal change expands religious influence
Egypt	Driven by political crises; 2012 Islamist-influenced constitution	Military and religious groups shape informal norms;	Military, Islamist groups, and judiciary	Strong Islamic influence; often limits

⁴¹⁵ Albert, *Constitutional Amendments*.

⁴¹⁶ Michel Rosenfeld and András Sajó, eds., *The Oxford Handbook of Comparative Constitutional Law*, 1st ed (Oxford, U.K: Oxford University Press, 2012); Yaniv Roznai, *Unconstitutional Constitutional Amendments: The Limits of Amendment Powers*, First published in paperback, Oxford Constitutional Theory (New York, United States of America: Oxford University Press, 2019); Nicola Tommasini, “Judicial Self-Empowerment and Unconstitutional Constitutional Amendments,” *International Journal of Constitutional Law* 22, no. 1 (April 16, 2024): 161–90, <https://doi.org/10.1093/icon/moae009>.

	replaced after the 2013 military coup	Sharia interpretations maintain the status quo	informal flexibility
Pakistan	The 18 th Amendment aimed at decentralization and structural political reforms	Sharia Courts integrate Islamic values into policy without revision	Parliament, the judiciary, and religious institutions incorporate Sharia principles

Indonesia is a prominent example of combining formal and informal changes to achieve comprehensive constitutional reform. The four stages of amendments to the 1945 Constitution between 1999 and 2002 reflect how formal mechanisms responded to democratic demands. However, informal changes through the interpretation of the Constitutional Court played a major role in maintaining political stability during religious and cultural pluralism. For example, the role of the Constitutional Court in interpreting constitutional articles related to human rights demonstrates how informal change can expand the scope of rights without explicit revision.⁴¹⁷

However, Turkey exhibits a different dynamic. Formal amendments are often used as a political tool to consolidate power, as seen in the 2017 transition to a presidential system in 2017.⁴¹⁸ These changes were made through national referendums, reflecting the use of formal mechanisms to legitimize major changes in government structures. Nevertheless, informal interpretations by the Constitutional Court played an important role, particularly in balancing institutionalized secularism and Islamic influence in the society. This dynamic demonstrates how formal change can

⁴¹⁷ Hendrianto, "The Indonesian Constitutional Court and Informal Constitutional Change"; Horowitz, *Constitutional Change and Democracy in Indonesia*, 2013.

⁴¹⁸ Hazır, "Narratives on Religion-State Relations in Turkey"; Mohd Nor and Ibrahim, "From Separation Between State and Religion to Religion-Freeing State."

manipulate institutions, while informal change is often a tool to balance political power.

Egypt offers another contrast, in which formal amendments often occur under political crises. Following the Arab Spring revolutions, the 2012 new constitution reflected the strong influence of Islamist groups. However, these changes were soon overturned following a military coup in 2013, which resulted in more authoritarian formal amendments.⁴¹⁹ In the informal context, the influence of military and nonstate groups plays an important role in shaping political dynamics. The use of social pressure and informal interpretations of sharia law demonstrate how informal changes maintain the status quo during political upheaval.

Pakistan is another example where formal and informal dynamics run parallelly. Formal amendments, such as the 18th Amendment, strengthened the decentralization of power and addressed structural challenges in the political system. However, informal changes through Sharia Courts demonstrate how religious values can be integrated into the legal system without explicit revisions to the constitutional text. Sharia Courts often serve as an informal mechanism to ensure that legal policies are consistent with Islamic principles, providing additional flexibility in Pakistan's legal system.⁴²⁰

This comparison reveals common patterns in the formal and informal dynamics in Muslim-majority countries and highlights significant contextual differences. The central role of key political actors, including the legislature, executive, and judiciary, in driving change is one pattern that stands out. However, the extent of involvement of nonstate actors, such as military or religious groups, differs across countries. For example, the military played a much larger role in shaping formal and informal change in Egypt and Pakistan than in Indonesia or Turkey.

⁴¹⁹ Hamad, *Judges and Generals in the Making of Modern Egypt*; Mohiuddin, "Islam, Religious Authority and The State."

⁴²⁰ Ahmed and Brasted, "Recognition and Dissent"; PTE ÁJK and Hassan, "The Shariah Law in Pakistani Legal System and General Legal Status of Women in Pakistan."

In addition, integrating religious values into the legal system shows notable variation. In Indonesia, religious pluralism allows greater flexibility in informal change, whereas more explicit Islamic principles in Egypt and Pakistan create stricter limits to informal change. With its secular tradition, Turkey demonstrates that informal change can expand religious influence even under a secularized legal regime. The flexibility of informal change is often an advantage in Muslim-majority countries, where the need to balance traditional values with the demands of legal modernization is critical. However, informal change carries risks, especially when used by political actors to circumvent more transparent formal procedures. This dynamic is evident in Turkey and Egypt, where informal interpretations often strengthen executive power.

Formal and informal dynamics in constitutional amendments in Muslim-majority countries reflect the need to adapt legal systems to unique social, political, and religious contexts. Although formal changes provide legal legitimacy, informal changes allow the legal system to remain responsive to social change. Their combination provides the necessary flexibility to maintain legal stability while remaining open to future legal innovation. Additionally, this comparison shows that there is no one-size-fits-all approach; each country needs a strategy tailored to its local context.

Opportunities and Challenges

In Muslim-majority countries, constitutional amendments are shaped by a complex interplay of structural institutions, local sociopolitical realities, and normative frameworks. These dynamics present challenges and opportunities, requiring careful navigation of national identities, religious values, democratic aspirations, and international legal norms. Although internal factors, such as political instability, elite dominance, and religious-legal tensions, are well-documented, examining the role of external influences—particularly global constitutionalism—in shaping the amendment process is necessary. The diffusion of constitutional norms

through global networks, transnational judicial dialogs, and international human rights obligations introduces pressures and possibilities of the evolution of constitutional law in the Islamic world.⁴²¹

Political instability is a predominant challenge that undermines the consensus-building necessary for formal constitutional reform. In countries such as Egypt and Pakistan, attempts at constitutional change have been repeatedly derailed by military interventions,⁴²² partisan polarization, and ideological fragmentation. The Egyptian experience following the 2011 revolution exemplifies this problem. Despite initial progress, formal amendments lacked enduring legitimacy because of the exclusion of key stakeholders, resulting in reversals after the 2013 coup.⁴²³ Thus, political instability obstructs institutional reform and reduces the constitutional text to a transient political instrument,⁴²⁴ vulnerable to elite manipulation rather than a durable governance framework.⁴²⁵

Another obstacle is the limited opportunities available for public participation. In many Muslim-majority countries, constitutional amendments are predominantly elite-driven and detached from the broad citizenry. For example, the 2017 shift to a presidential system was legally ratified through a referendum in Turkey, yet the campaign was conducted under restrictive conditions that marginalized dissenting voices. This disconnect between procedural legitimacy and substantive inclusivity undermines the constitutional reform's democratic foundation. Such top-down approaches are increasingly scrutinized in an age of global democratic standards, contributing to a growing deficit in public trust and long-term constitutional resilience.

The tension between religious values and democratic principles further complicates the situation. In Pakistan, incorporating sharia into

⁴²¹ Albert, *Constitutional Amendments*.

⁴²² Scott, "What Might the Muslim Brotherhood Do with Al-Azhar?"

⁴²³ Hamad, *Judges and Generals in the Making of Modern Egypt*.

⁴²⁴ Waseem, "Islamic Constitutionalism in Pakistan."

⁴²⁵ Hasret Dikici Bilgin and Emre Erdoğan, "Obscurities of a Referendum Foretold: The 2017 Constitutional Amendments in Turkey," *Review of Middle East Studies* 52, no. 1 (April 2018): 29–42, <https://doi.org/10.1017/rms.2018.9>.

the legal system frequently results in interpretive conflicts with international human rights norms, particularly over gender and minority rights.⁴²⁶ Egypt also struggles to reconcile Islamic jurisprudence with its constitutional commitments to equality.⁴²⁷ Global constitutionalism, promoting liberal democratic values that may be perceived as externally imposed or culturally dissonant, exacerbates these internal frictions. Notably, harmonizing religious identity with the evolving standards of constitutional legitimacy in a globalized legal order is challenging.

Nevertheless, among these constraints, opportunities for innovation and reform emerge—especially through informal constitutional change. Indonesia is a compelling example, where the Constitutional Court’s interpretive activism has effectively expanded constitutional rights and checks on executive power without amending the constitutional text. Such informal pathways enable legal systems to remain adaptive while preserving institutional continuity. Moreover, this mode of change aligns with the principle of constitutional evolution championed in global constitutionalism, wherein living constitutions are gradually shaped through judicial interpretation and normative dialog rather than abrupt structural overhauls.

The increasing influence of civil society and nonstate actors in the constitutional discourse is another remarkable opportunity. Movements during the Arab Spring in Egypt and the activism of legal advocacy groups in Indonesia illustrate how grassroots mobilization can catalyze reform. This bottom-up engagement reflects a broader trend in global constitutionalism, emphasizing participatory constitutionalism—placing citizens, not just institutions, at the heart of constitutional legitimacy.⁴²⁸ In

⁴²⁶ Ahmed and Brasted, “Recognition and Dissent”; Hafiz Muhammad Ishaq and Muhammad Aman Ullah, “Rights of Non-Muslims in a Sharia and Its Application in Pakistan: قانون شریعت میں غیر مسلموں کے حقوق اور ان کا پاکستان میں اطلاق,” *The Islamic Culture “As-Saqafat-Ul Islamia” - الثقافة الإسلامية - Research Journal - Sheikh Zayed Islamic Centre, University of Karachi* 47, no. 2 (December 30, 2022), <https://doi.org/10.58352/tis.v47i2.873>.

⁴²⁷ Lavie, “The Constitutionalization of the Civil State.”

⁴²⁸ Rasyid et al., “Reformulation of the Authority of Judicial Commission.”

Indonesia, organizations including LBH and Nahdlatul Ulama have effectively shaped the public constitutional consciousness, supporting inclusive legal reform while respecting religious pluralism and local values.⁴²⁹

Global constitutionalism must not be viewed as a monolithic western imposition, but a pluralistic dialog between universal norms and local realities. Despite its strong secular heritage, Turkey's selective incorporation of Islamic norms into public policy reveals how legal pluralism can bridge traditional and modern frameworks. Similarly, Indonesia's flexible constitutional practices demonstrate that upholding global constitutional standards—such as the protection of fundamental rights—is possible while embedding them within culturally resonant structures. These cases suggest that global constitutionalism, if critically and contextually engaged, offers tools for harmonizing competing values rather than imposing rigid models.

Constitutional amendments in Muslim-majority countries sit at the intersection of national sovereignty, religious tradition, democratic aspirations, and global legal influence. While political instability, elite dominance, and normative tensions pose formidable challenges, opportunities exist as informal mechanisms, civil society engagement, and context-sensitive adaptation of global constitutional values. Therefore, the influence of global constitutionalism is a challenge and a resource: it can provoke resistance when misaligned with local norms, but enrich reform processes by offering inclusive frameworks and interpretive flexibility. Thus, a holistic, critical, and context-aware approach is essential for understanding and guiding constitutional change in the Islamic world.

⁴²⁹ Gustav Brown, "Civic Islam: Muhammadiyah, Nu and the Organisational Logic of Consensus-Making in Indonesia," *Asian Studies Review* 43, no. 3 (July 3, 2019): 397–414, <https://doi.org/10.1080/10357823.2019.1626802>.

Conclusion

The dynamics of formal and informal constitutional amendments in Muslim-majority countries, especially in Indonesia, Turkey, Egypt, and Pakistan, show that formal change processes often reflect complex political dynamics, including pressures from state actors such as the legislature and the executive, whereas social norms, judicial interpretations, and political practices influence informal change. Indonesia stands out as a model that successfully combines formal change through amendments to the 1945 Constitution with informal change led by the Constitutional Court, creating a balance between legal stability and political flexibility. In contrast, Egypt and Pakistan show that political crises and military influence can hinder the sustainability of constitutional reform, although informal change often maintains legal legitimacy during instability. This study contributes to the constitutionalism literature by highlighting the importance of informal amendments as a means of adapting the legal system to local needs without involving constitutional text revision. Additionally, it provides practical guidance for policymakers to understand the association between religion, politics, and law in designing inclusive and sustainable constitutional reforms in Muslim countries.

References

- Abeyratne, Rehan, and Ngọc Sơn Bùi, eds. *The Law and Politics of Unconstitutional Constitutional Amendments in Asia. Comparative Constitutional Change*. Abingdon, Oxon ; New York, NY: Routledge, 2021.
- Ahmad, and Novendri M. Nggilu. "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution." *Jurnal Konstitusi* 16, no. 4 (2019).
- Ahmed, Dawood, and Muhammad Zubair Abbasi. *Democracy under God: Constitutions, Islam and Human Rights in the Muslim World*. 1st ed. Cambridge University Press, 2023. <https://doi.org/10.1017/9781316662618>.
- . *Democracy Under God: Constitutions, Islam and Human Rights in the Muslim World*. 1st ed. Cambridge University Press, 2023.

<https://doi.org/10.1017/9781316662618>.

Ahmed, Imran. "Writing Islamic Constitutions: Lessons from Pakistan." *The Round Table* 107, no. 3 (May 4, 2018): 317–28. <https://doi.org/10.1080/00358533.2018.1476091>.

Ahmed, Imran, and Howard Brasted. "Recognition and Dissent: Constitutional Design and Religious Conflict in Pakistan." *Journal of Contemporary Asia* 51, no. 2 (March 15, 2021): 351–67. <https://doi.org/10.1080/00472336.2020.1719538>.

Albert, Richard. *Constitutional Amendments: Making, Breaking, and Changing Constitutions*. Oxford, United Kingdom ; New York: Oxford University Press, 2019.

Ali, Hager, Salah Ben Hammou, and Jonathan M. Powell. "Between Coups and Election: Constitutional Engineering and Military Entrenchment in Sudan." *Africa Spectrum* 57, no. 3 (December 2022): 327–39. <https://doi.org/10.1177/00020397221136581>.

Altwegg-Boussac, Manon. "Informal Constitutional Change and Political Law." In *The Political Dimension of Constitutional Law*, edited by Miguel Nogueira De Brito and Luís Pereira Coutinho, 91–104. Cham: Springer International Publishing, 2020. https://doi.org/10.1007/978-3-030-38459-3_6.

———. "Informal Constitutional Change and Political Law." In *The Political Dimension of Constitutional Law*, edited by Miguel Nogueira De Brito and Luís Pereira Coutinho, 91–104. Cham: Springer International Publishing, 2020. https://doi.org/10.1007/978-3-030-38459-3_6.

Barus, Sonia Ivana. "Proses Perubahan Mendasar Konstitusi Indonesia Pra Dan Pasca Amendemen." *University Of Bengkulu Law Journal* 2, no. 1 (April 22, 2017): 29–55. <https://doi.org/10.33369/ubelaj.2.1.29-55>.

Bilgin, Hasret Dikici, and Emre Erdoğan. "Obscurities of a Referendum Foretold: The 2017 Constitutional Amendments in Turkey." *Review of Middle East Studies* 52, no. 1 (April 2018): 29–42. <https://doi.org/10.1017/rms.2018.9>.

Brown, Gustav. "Civic Islam: Muhammadiyah, Nu and the Organisational Logic of Consensus-Making in Indonesia." *Asian Studies Review* 43, no. 3 (July 3, 2019): 397–414. <https://doi.org/10.1080/10357823.2019.1626802>.

Colón-Ríos, Joel I. *Constituent Power and the Law*. First edition. Oxford Constitutional Theory. Oxford New York, NY: Oxford University Press, 2020.

Doyle, Oran, and Rachael Walsh. "Constitutional Amendment and Public Will Formation: Deliberative Mini-Publics as a Tool for Consensus Democracy." *International Journal of Constitutional Law* 20, no. 1

- (July 27, 2022): 398–427. <https://doi.org/10.1093/icon/moac013>.
- Fadel, Mohammad. “Islamic Law and Constitution-Making: The Authoritarian Temptation and the Arab Spring.” *Osgoode Hall Law Journal* 53, no. 2 (January 1, 2016): 472–507. <https://doi.org/10.60082/2817-5069.2994>.
- Fatkurohman, Fatkhurohman, Sirajuddin Sirajuddin, and Sholahudin Al Fatih. “Facing Digital Age: Should the Regional Regulation Be Made Digitally?” *Jambura Law Review* 7, no. 1 (December 7, 2024): 1–29. <https://doi.org/10.33756/jlr.v7i1.27111>.
- Gouda, Moamen, and Jerg Gutmann. “Islamic Constitutions and Religious Minorities.” *Public Choice* 186, no. 3–4 (March 2021): 243–65. <https://doi.org/10.1007/s11127-019-00748-7>.
- Gouda, Moamen, and Shimaa Hanafy. “Islamic Constitutions and Democracy.” *Political Research Quarterly* 75, no. 4 (December 2022): 994–1005. <https://doi.org/10.1177/1065912921991241>.
- Hafiz Muhammad Ishaq and Muhammad Aman Ullah. “Rights of Non-Muslims in a Sharia and Its Application in Pakistan: قانون شريعة في غير مسلمين في حقوقهم في انكا باكستان ميں اطلاق.” *The Islamic Culture “As-Saqafat-Ul Islamia” الثقافة الإسلامية - Research Journal - Sheikh Zayed Islamic Centre, University of Karachi* 47, no. 2 (December 30, 2022). <https://doi.org/10.58352/tis.v47i2.873>.
- Hamad, Mahmoud. *Judges and Generals in the Making of Modern Egypt: How Institutions Sustain and Undermine Authoritarian Regimes*. 1st ed. Cambridge University Press, 2018. <https://doi.org/10.1017/9781108559393>.
- Hartono, Bambang. “The Value of Pancasila as an Ideological Based for the Development of the Legal System in Indonesia.” *International Journal of Law and Politics Studies* 6, no. 4 (August 1, 2024): 50–56. <https://doi.org/10.32996/ijlps.2024.6.4.6>.
- Hazır, Agah. “Narratives on Religion-State Relations in Turkey: Continuities and Discontinuities.” *Turkish Studies* 21, no. 4 (August 7, 2020): 557–77. <https://doi.org/10.1080/14683849.2019.1685881>.
- Hendrianto, Stefanus. “The Indonesian Constitutional Court and Informal Constitutional Change.” In *Constitutional Democracy in Indonesia*, edited by Melissa Crouch, 1st ed., 219–40. Oxford University Press Oxford, 2022. <https://doi.org/10.1093/oso/9780192870681.003.0011>.
- Horowitz, Donald L. *Constitutional Change and Democracy in Indonesia. Problems of International Politics*. Cambridge [England] ; New York: Cambridge University Press, 2013.
- . *Constitutional Change and Democracy in Indonesia. Problems of International Politics*. Cambridge [England] New York: Cambridge

University Press, 2013.

Irwansyah, Irwansyah. *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel*. Yogyakarta: Mirra Buana Media, 2020.

Isra, Saldi, and Feri Amsari. "Perubahan Konstitusi Melalui Tafsir Hakim." *Jurnal Konstitusi: PUSaKO* 1, no. 1 (2010).

Izmaylov, Rustam, Albina Imamutdinova, and Marina Mefodeva. "Laicism in the Republic of Turkey in the 1920-1930s." *Humanities & Social Sciences Reviews* 7, no. 5 (October 20, 2019): 692–95. <https://doi.org/10.18510/hssr.2019.7584>.

Jurdi, Fajlurrahman, and Ahmad Yani. "Legitimacy of Non-Formal Constitutional Reforms and Restrictions on Constitutionalism: Legitimasi Perubahan Konstitusi Non-Formal Dan Pembatasannya Dalam Paham Konstitusionalisme." *Jurnal Konstitusi* 20, no. 2 (June 1, 2023): 238–56. <https://doi.org/10.31078/jk2024>.

Karakuş, Muhammed, and Mehmet Akif Koç. "Social and Political Foundations of Constitutionalism in the Middle East: The First Constitutional Movements in Tunisia, Ottoman Turkey, Egypt, and Iran." *International Journal of Kurdish Studies* 8, no. 2 (August 25, 2022): 150–74. <https://doi.org/10.21600/ijoks.1103307>.

Kontiadēs, Xenophōn I., and Alkmēnē Phōtiadou, eds. *Routledge Handbook of Comparative Constitutional Change*. Routledge Handbooks. London ; New York, NY: Routledge, Taylor & Francis Group, 2021.

Lavie, Limor. "The Constitutionalization of the Civil State: The Self-Definition of Egypt, Tunisia and Yemen Following the Arab Uprisings." *Religions* 12, no. 4 (April 13, 2021): 269. <https://doi.org/10.3390/rel12040269>.

Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana, 2005.

Mohd Nor, Mohd Roslan, and Muhammad Khalis Ibrahim. "From Separation Between State and Religion to Religion-Freeing State: The Changing Faces of Secularism in Turkey." *Indonesian Journal of Islam and Muslim Societies* 13, no. 1 (June 5, 2023): 85–114. <https://doi.org/10.18326/ijims.v13i1.85-114>.

Mohiuddin, Asif. "Islam, Religious Authority and The State: The Case of Egypt." *Asian Journal of Middle Eastern and Islamic Studies* 16, no. 2 (April 3, 2022): 165–88. <https://doi.org/10.1080/25765949.2022.2097730>.

Olçay, Tarik. "The Unamendability of Amendable Clauses: The Case of the Turkish Constitution." In *An Unamendable Constitution?*, edited by Richard Albert and Bertil Emrah Oder, 68:313–43. *Ius Gentium: Comparative Perspectives on Law and Justice*. Cham: Springer International Publishing, 2018.

https://doi.org/10.1007/978-3-319-95141-6_12.

- Prasetio, Dicky Eko, Muh. Ali Masnun, and Noviyanti Noviyanti. "Post-Election Reconciliation in 2024 as a Constitutional Convention in Indonesia: A Progressive Legal Culture Perspective." *Jambura Law Review* 7, no. 1 (January 31, 2025): 176–96. <https://doi.org/10.33756/jlr.v7i1.26999>.
- PTE ÁJK, and Anna Hassan. "The Shariah Law in Pakistani Legal System and General Legal Status of Women in Pakistan." *DÍKE* 4, no. 1 (September 1, 2020): 190–210. <https://doi.org/10.15170/DIKE.2020.04.01.13>.
- Rasyid, Usman, Novendri Mohamad Nggilu, Fence Wantu, Julisa Aprilia Kaluku, and Ahmad Ahmad. "Reformulation of the Authority of Judicial Commission: Safeguarding the Future of Indonesian Judicial Power." *Jambura Law Review* 5, no. 2 (July 31, 2023): 386–413. <https://doi.org/10.33756/jlr.v5i2.24239>.
- Rosenfeld, Michel, and András Sajó, eds. *The Oxford Handbook of Comparative Constitutional Law*. 1st ed. Oxford, U.K: Oxford University Press, 2012.
- Roznai, Y., and S. Yolcu. "An Unconstitutional Constitutional Amendment--the Turkish Perspective: A Comment on the Turkish Constitutional Court's Headscarf Decision." *International Journal of Constitutional Law* 10, no. 1 (January 1, 2012): 175–207. <https://doi.org/10.1093/icon/mos007>.
- Roznai, Yaniv. *Unconstitutional Constitutional Amendments: The Limits of Amendment Powers*. First published in paperback. Oxford Constitutional Theory. Oxford, United Kingdom New York, United States of America: Oxford University Press, 2019.
- Sabreen, Mudasra. "The Judiciary-Led Islamization of Family Law in Pakistan: An Analysis." *Islamic Studies* 59, no. 2 (2020).
- Sampaio, José Adércio Leite. "A Constituição Sob Ataque: Legislativo E Executivo Como Fatores Mutagênicos." *Revista de Estudos Constitucionais, Hermenêutica e Teoria Do Direito* 10, no. 3 (December 30, 2018): 251–63. <https://doi.org/10.4013/rechtd.2018.103.03>.
- Sarifuzzaman, Khan. "The Role of Political Islam in Egyptian Democratic Experience." *Journal of Social and Political Sciences* 2, no. 3 (September 30, 2019). <https://doi.org/10.31014/aior.1991.02.03.92>.
- Scott, Rachel M. "What Might the Muslim Brotherhood Do with Al-Azhar? Religious Authority in Egypt." *Die Welt Des Islams* 52, no. 2 (2012): 131–65. <https://doi.org/10.1163/157006012X641674>.
- Setiawan, Romi Adetio. "Impact of Islamic Jurisprudential on Traditional Financial Customs and Legal Integration in Indonesia." *Journal of*

- Islamic Thought and Civilization 13, no. 2 (December 6, 2023): 195–209. <https://doi.org/10.32350/jitc.132.13>.
- Steinbach, Udo. “The Impact of Atatürk on Turkey’s Political Culture Since World War II.” In *Atatürk and the Modernization of Turkey*, by Jacob M Landau, 77–88. edited by Jacob M. Landau, 1st ed. Routledge, 2019. <https://doi.org/10.4324/9780429050213-6>.
- Sulistyowati, Tri, Ali Ridho, and M Imam Nasef. “Constitutional Compliance Solution to Law Testing Rulings in the Constitutional Court.” *Jambura Law Review* 3 (May 1, 2021): 117–34. <https://doi.org/10.33756/jlr.v3i0.10735>.
- Taufiqurrohman, A.H. Asari, Mohamad Hidayat Muhtar, Ahmad Ahmad, Nur Mohamad Kasim, and Suwitno Yutye Imran. “The Role of Islamic Law, Constitution, and Culture in Democracy in the UAE and Indonesia.” *AHKAM : Jurnal Ilmu Syariah* 24, no. 1 (June 30, 2024). <https://doi.org/10.15408/ajis.v24i1.33155>.
- Tommasini, Nicola. “Judicial Self-Empowerment and Unconstitutional Constitutional Amendments.” *International Journal of Constitutional Law* 22, no. 1 (April 16, 2024): 161–90. <https://doi.org/10.1093/icon/moae009>.
- Trakic, Adnan, and Hanifah Haydar Ali Tajuddin, eds. *Islamic Law in Malaysia: The Challenges of Implementation*. Singapore: Springer Singapore, 2021. <https://doi.org/10.1007/978-981-33-6187-4>.
- Wardaya, Manunggal K. “Perubahan Konstitusi Melalui Putusan MK: Telaah Atas Putusan Nomor 138/PUU-VII/2009.” *Jurnal Konstitusi* 7, no. 2 (May 20, 2016): 019. <https://doi.org/10.31078/jk722>.
- Waseem, Mohammad. “Islamic Constitutionalism in Pakistan.” *Arab Law Quarterly* 38, no. 4 (June 20, 2024): 446–65. <https://doi.org/10.1163/15730255-bja10165>.
- Yaniv Roznai. “The Uses and Abuses of Constitutional Unamendability.” In *Routledge Handbook of Comparative Constitutional Change*, edited by Xenophōn I. Kontiadēs and Alkmēnē Phōtiadou. Routledge Handbooks. London ; New York, NY: Routledge, Taylor & Francis Group, 2021.
- Zakaria, Aliaa, Ayman Mohamed Afify, and Moustafa Elmetwaly Kandeel. “Legal Adaptation and Governance of Constitutional Declarations During Transitional Periods.” *Corporate Law and Governance Review* 5, no. 2 (2023): 42–55. <https://doi.org/10.22495/clgrv5i2p5>.
- Zeghal, Malika. *The Making of the Modern Muslim State: Islam and Governance in the Middle East and North Africa*. Princeton Studies in Muslim Politics. Princeton Oxford: Princeton University Press, 2024.

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