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**TRILOGY OF CHALLENGES AND THREATS IN CONSTITUTIONAL CHANGE: POPULISM, (UN)CONSTITUTIONAL AMENDMENTS AND CONSTITUTIONALISM**

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***Abstract***:

Constitutions usually enclose rules about constitutional amendments. In the modern time, the study of constitutional design is of interest, in large part, because a constitution can be amended and such processes make room for the fundamental questions about legitimacy of the constitutional order, the holder and the locus of sovereignty, especially in those legal orders where a popular legitimated process of altering the Constitution is entrenched. Indeed, in some legal orders “*We, the People*” are called to approve any constitutional change, but as demonstrated, democratic constitutions undermine popular participation in such processes.

In recent years, scholars have produce literature in constitutional amendments, in particular in analyzing the phenomenon of constitutional endurance (Elkins at al. 2009; Ginsburg 2011, 112) and constitutional amendments rules (Albert at al. 2017; Albert 2014, 952-4, Dixon 2011, 96), the competence of constitutional courts to rule on constitutional amendments (Gözler 2008; Ragone 2011; Roznai 2013, 657; Freitas Mohallem 2011, 765-7), the unamendability and unconstitutional amendments as well as their relationship with democracy, abusive constitutionalism or stealth authoritarianism (Dixon 2017, 2; Halmai 2016, 134; Dixon and Landau 2015, 609-13; Jackson 2015, 575; Landau 2013, 225; Albert 2013, 225; Issacharoff 2011, 961; Samar 2008, 667; Jacobsohn 2006, 460). In any case, until now, there is still little scholarly debate on the amendment power, and even less on the role of ‘the people’ within constitutional changes (Contiades, and Fotiadou, 2017; Ragone 2011; Elkinsat al. 2008, 362; Rosenfeld 2010, 685; Saunders 2012, 2; Colon-Rios 2013, 521; Versteeg 2014, 1143; Suteu 2015, 258). The narrowness of the literature regarding people’s capacity to strengthen constitutional rigidity is not because their amendment power is irrelevant or consists in a secondary matter within democratic constitutional design (Strauss 2001, 1460; Denning and Vile 2002, 274; Rasch and Congleton 2006, 323) nor because of its misperceived ‘secondary-ness’ within the institutional structure of political system. The need for further discussion exists because popular constitutional change is a complex ‘labyrinth’ of relationships and interactions between amendment procedures, political actors, and centers of authority, and these processes must be studied in any part, considering them from an integrated perspective.

Moreover, analyzing the role of “the people” within the theory of (un)amendability stresses how a problematic issue arises when populist parties are democratically elected and a(n) (un)constitutional amendment is proposed and adopted by the governed through procedure which does not include popular participation. Constitutional arrangements concerning popular initiatives within constitutional amendment processes, as well as features of unamendability clauses that limit people’s power will demonstrate the difficulties in constitutional changes aiming to put apart popular participation despite of populist claims.

In this view, the paper proposes two approaches – of threats and of challenges – related to the role of the people in constitutional change as two facets of the same dialectic trilogy. Starting from a comparative analysis of some (i)liberal experiences, it scrutinized the degree of people’s power in constitutional amendment processes and the serious constitutional law problem behind the people involvement aiming at redefining and interpreting modern constitutionalism.