

Deliberata ambiguità: i limiti superlegali alla revisione costituzionale

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Ambiguity by Design: Superlegal Limits of Constitutional Amendment

Abstract: While engaging with Jorge Baquerizo Minuche's positivist warning against the ambiguity and vagueness inherent in the doctrine of material limits to constitutional amendment, this comment argues that these features are not so much pathologies as structural traits of post-World War II constitutions. Baquerizo Minuche's distinction between normative identity (principles) and axiological identity (values) clarifies different interpretive operations; yet, in practice, the two dimensions converge within value-dense, semantically open constitutional texts. This text contends that judicial elaboration of supreme principles and objective value orders represents not a deviation from the constitutional text but the activation of deliberately open constitutional frameworks. The material limitation of amendment powers thus reflects a model of superlegality designed to ensure constitutional endurance amid pluralism and social transformation, rather than an unwarranted expansion of judicial authority.

Keywords: Constitutional amendment, Constitutional identity, Judicial review, Material constitutionalism, Superlegality.

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