



STRENGTHENING THE RULE OF LAW: THE ROLE OF COURTS AND LAWYERS IN CONSTITUTIONAL TRANSITION AND REFORM

Seventh Women Constitution-Makers' Dialogue, 2025



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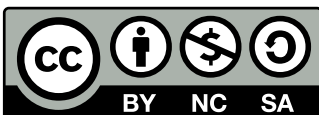


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Now in its seventh year, the Women Constitution-Makers' Dialogue offers a space for women constitution-builders, peacebuilders and activists to share experiences, lessons and tactics on drafting gender-sensitive constitutions and amplifying women's voices and influence in constitution-building. This year's Dialogue benefited greatly from the expert insights of Christina Murray, Elizabeth Muli, Sanaa Alsarghali and Susan Williams, whose profound knowledge of constitutional design and the role of legal institutions in democratic transitions enriched our discussions. We are especially grateful to Christina Murray for her thoughtful comments on this report.

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Contents

Acknowledgements	iv
Executive summary	1
Key findings	2
Introduction	4
Chapter 1	
The role of courts in constitutional reforms and transitions	7
1.1. Introduction	7
1.2. Courts as actors and subjects in reform	8
1.3. Constraints on courts in transitional settings	9
1.4. Enforcing rights and (re-)building the rule of law	10
1.5. Building authority and securing compliance	12
1.6. Restoring judicial integrity	13
Chapter 2	
Lawyers and bar associations in constitutional reforms and transitions	16
2.1. Introduction	16
2.2. The legal profession in the constitutional order	16
2.3. Drafters, defenders, enablers: The legal profession and bar associations in transition and reform	18
2.4. Securing independence and mobilizing for reform	21
2.5. Bar associations as guardians of constitutional transformation	22
Chapter 3	
Women's leadership in constitutional reform and the legal profession	24
3.1. Introduction	24
3.2. Women's participation and influence in constitution making	25
3.3. Constitutional equality guarantees and women's representation	25
3.4. Negotiating gender equality in practice: Ghana, Bangladesh and Syria	26
3.5. Women in the legal profession and judiciary: Impact and gendered risk	30
3.6. Forging new pathways: Networks, mentorship and intergenerational solidarity	32
Chapter 4	
Conclusion	34
References	36
Annex A. Programme	46

Annex B. List of participants	49
About the authors	51
About the partners	52
International IDEA	52
Edinburgh Centre for Constitutional Law	52
PeaceRep	53

EXECUTIVE SUMMARY

The Women Constitution-Makers' Dialogue series was established in 2019 as an annual platform for peer-to-peer exchanges among women involved in constitution making around the world. It supports structured engagement among national practitioners from past and ongoing processes, predominantly in fragile settings, as well as international expert advisors. The participants, constituting a global network of women constitution-makers and peacebuilders linked through the organizing partners, convened for the seventh event in November 2025. Entitled 'Strengthening the Rule of Law: The Role of Courts and Lawyers in Constitutional Transition and Reform', the Dialogue brought together 23 expert practitioners, including members of bar associations, judges, advocates and researchers covering Bangladesh, Ghana and Syria. The Dialogue explored the role of rule-of-law actors—such as courts, judges, bar associations and lawyers—in steering moments of reform towards democratic transition or consolidation and, in the best cases, transformation.

While new or reformed constitutions often articulate commitments to rights, accountability and democratic governance, the realization of these commitments depends on the institutions and actors responsible for interpreting, implementing and defending them.

Courts are central to constitutional transitions, acting both as guardians of the constitutional order and as institutions undergoing reform. They are tasked with interpreting new constitutional frameworks, enforcing rights and resolving disputes, while simultaneously confronting questions of independence, integrity and legitimacy. At the same time, courts may operate under sustained political pressure (often from the executive), including attempts to influence appointments, constrain jurisdiction or undermine their decisions. They also face competing public expectations—demands for rapid transformation, on the one hand, and resistance to decisions that challenge entrenched interests, on the other. To navigate these conditions, courts employ a range of strategies to build legitimacy and secure compliance, including incremental jurisprudence,

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detailed reasoning, and both formal and informal interactions and alliances with other institutional actors.

As intermediaries between individuals and the state, **lawyers and bar associations** are capable of supporting or undermining democratic governance. Through their representational and regulatory functions, bar associations can shape access to justice, uphold professional standards and contribute to accountability within the constitutional system. Bar associations may act as defenders of judicial independence and the constitutional order, including through advocacy, litigation and public engagement. At the same time, they may be highly politicized, fragmented or captured, limiting their ability to act independently or cohesively in constitutional transitions.

Women's contributions are particularly significant in shaping rights-based jurisprudence and advancing gender equality.

Women's leadership is essential to inclusive and effective constitutional reform and sustainable democracy. Women contribute as judges, lawyers, constitution-makers and civil society actors, shaping both the substance of constitutional texts and their interpretation and implementation. Women's contributions are particularly significant in shaping rights-based jurisprudence and advancing gender equality. At the same time, women in legal and political spaces face gender-based risks, including harassment, professional marginalization and, in some contexts, threats to personal safety. In response, women develop strategies of influence and resilience, including informal networks, mentorship and intergenerational solidarity. These practices play a critical role in sustaining women's leadership and expanding their impact within constitutional processes and beyond.

KEY FINDINGS

Key findings from the seventh Women Constitution-Makers' Dialogue include the following:

1. The rule of law is not self-executing: it must be actively constructed through courts, legal and justice professionals, political actors and society, and sustained through institutions over time.
2. Trust underpins the rule of law, and it must be continuously built and reinforced by all public institutions over time, including through consistency, credibility and meaningful access to justice. Such trust must be mutual, but it often begins with the state: when public institutions demonstrate trust in and respect for the people, this can in turn foster public confidence in the state and its institutions.
3. The authority of courts is contingent on their ability to build legitimacy, display integrity, navigate political and social pressures, and secure compliance with their decisions; it cannot be assumed from the constitutional text alone.

4. Judicial independence, while often formally guaranteed, remains vulnerable in practice—particularly through executive influence over appointments, discipline and access to resources. This highlights the importance of effective checks and balances among the branches of government.
5. Structural constraints are a persistent feature of transitional contexts. Courts may therefore need to adopt strategies that build authority over time but do not compromise the integrity or impartiality of their judgments.
6. Bar associations both shape and reflect legal culture. Although multiple or diverse associations can strengthen representation, divisions within the profession—particularly when shaped by political alignment or competition—together with weak internal governance, can undermine their effectiveness. Legal and financial autonomy are necessary but insufficient; strong governance, ethical enforcement and a shared professional identity are also required.
7. Legal education and training are long-term mechanisms for constitutional implementation and transformation. Ethics and public-mindedness must be mainstreamed in legal education and training to re-educate current lawyers and prepare the next generation to be defenders of democracy and the rule of law.
8. Across courts and the legal profession, women continue to navigate limited representation, professional hostility and gendered expectations. As a result, they often rely on formal mechanisms, informal networks, mentorship and strategic positioning to exercise influence.
9. Women and allies need to be aware of the constitution-making pipeline to push for representation at every stage. Early decisions about the design and composition of constitution-making bodies can be particularly determinative, as seen in Bangladesh and Syria, where newly elected or selected assemblies may later assume constitution-making roles, limiting women's formal access from the outset.

INTRODUCTION

On 13 and 14 November 2025 the International Institute for Democracy and Electoral Assistance (International IDEA), together with the University of Edinburgh Law School, hosted—within the framework of the Peace and Conflict Resolution Evidence Platform (PeaceRep)—the seventh annual Women Constitution-Makers’ Dialogue in The Hague, the Netherlands.

THE WOMEN CONSTITUTION-MAKERS’ DIALOGUE SERIES

The Women Constitution-Makers’ Dialogue was initiated in 2019 as a platform for women constitution-makers from past and ongoing processes to discuss their experiences, successes and challenges with peers from other constitutional reform endeavours. It represents a conceptual and practical response to the documented need for an organized, systematic and women-centred approach to constitution-building. Through these discussions, participants have shared experiences, exchanged ideas and identified comparative models and resources related to both constitution-making processes and constitutional design choices.¹

DEFINING THE SCOPE

The seventh Women Constitution-Makers’ Dialogue was titled ‘Strengthening the Rule of Law: The Role of Courts and Lawyers in Constitutional Transition and Reform’. In contrast to previous years’ Dialogues, which drew on a wider range of country contexts, this year’s discussions centred on ongoing constitutional transitions in three countries—Bangladesh, Ghana and Syria.

¹ For more information and to view previous workshop reports, visit <<https://constitutionnet.org/event-series/women-constitution-makers-dialogue>>.

This narrower scope allowed for a more focused discussion of how courts and the legal profession shape reform processes in contexts of political crisis or transition.

This report does not purport to be an exhaustive account of rule-of-law issues relating to courts, lawyers and transitions but rather reflects the viewpoints and priorities of the Dialogue participants, offering additional context and analysis throughout.²

BACKGROUND

Bangladesh, Ghana and Syria are all undergoing processes of constitutional replacement or reform.

In **Bangladesh**, the current constitutional reform process was triggered by the 2024 Gen Z protests that culminated in the collapse of the authoritarian government and the establishment of an interim administration. The interim government established multiple thematic reform commissions in late 2024, including a Constitutional Reform Commission mandated to diagnose prior constitutional weaknesses and propose a new constitutional framework. In addition, a dedicated Women's Affairs Reform Commission was created to address structural gender inequality and propose reforms across constitutional, legal and social domains, including equality guarantees and family law reform. The reform process has also included parliamentary elections and a constitutional referendum held in February 2026, marking the first national vote since the transition and producing a new legislature that might in the future sit as a constituent assembly. Despite its historically prominent role in democratic movements, the highly politicized bar association has not played a coordinated or influential role in the current reform process. Further, the process has revealed a series of tensions between the technocratic reform bodies and politicians, with questions remaining regarding sequencing and whether reform will ultimately proceed through a constituent assembly or incremental constitutional amendment.

In **Ghana**, three major constitutional reform processes have been instituted since the transition to constitutional democracy under the 1992 Constitution. Recent debates have focused on executive dominance, tensions with judicial independence and declining public trust in state institutions. A Constitution Review Committee established in 2025 has been mandated to revisit earlier reform efforts and propose targeted amendments through a consultative, expert-led process. The Committee submitted its report to the president in December 2025. The Ghana Bar Association has been directly engaged in this process through submissions to the Committee and stakeholder consultations. While the report presents far-reaching recommendations on

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² For a complementary International IDEA report, see T. G. Daly, *The Judiciary and Constitutional Transitions* (Stockholm: International IDEA, 2016), <<https://www.idea.int/publications/catalogue/judiciary-and-constitutional-transitions>>, accessed 1 April 2026.

Women’s groups and gender advocates have used the reform moment to push for stronger constitutional guarantees on equality and representation.

strengthening checks on executive authority, refining judicial appointment and tenure, and addressing gaps between formal constitutional guarantees and their implementation in practice, the process is understood as one of reform and recalibration within an otherwise stable legal order. Women’s groups and gender advocates have used the reform moment to push for stronger constitutional guarantees on equality and representation, updating outdated provisions and building on long-standing advocacy that has recently resulted in legislative developments such as the 2024 Affirmative (Gender Equity) Act.

In **Syria**, the current constitutional process emerged following the collapse of the regime of President Bashar al-Assad in late 2024. In March 2025, the transitional authorities issued a Constitutional Declaration to serve as an interim constitutional framework governing a five-year transition. Developed through a strongly executive-led process, the declaration appears to prioritize state consolidation and governance over participatory constitution making. This centralizing approach is also reflected in the enduring subordination of the bar association, which has been largely absent from constitutional discussions and subject to continuing executive control, with the interim executive appointing new leadership in 2025. The transitional process has been accompanied by elections via electoral colleges held in October 2025, which established a new People’s Assembly tasked, in part, with advancing the constitutional transition, although a significant portion remains unappointed at the time of writing. Women’s groups, including long-standing feminist networks and civil society actors operating both inside Syria and in exile, have sought to influence the transition by producing constitutional proposals and advocating for inclusive participation. Nevertheless, the concentration of authority in the transitional executive, combined with limited inclusivity in the process and ongoing territorial divisions, will continue to raise concerns about the long-term trajectory of the constitution-making process.

STRUCTURE OF THE REPORT

The report proceeds as follows. Chapter 1 considers courts as both actors in constitution making and subjects of reform. Chapter 2 turns to lawyers and bar associations as significant, though often less visible, constitutional actors. Chapter 3 focuses on women’s leadership across constitutional reform processes, the judiciary and the legal profession. It explores the relationship between constitutional design and women’s representation and the ways in which women exercise influence despite structural constraints and gendered risks.

Chapter 1

THE ROLE OF COURTS IN CONSTITUTIONAL REFORMS AND TRANSITIONS

1.1. INTRODUCTION

As reflected throughout the Women Constitution-Makers' Dialogue, courts occupy a uniquely complex position during constitutional transitions. Where established and functioning, they are not only charged with interpretation and guardianship of the emerging constitutional order but are also institutions undergoing reform themselves. In some transitions, courts—and the judges who comprise them—may be called upon to certify new constitutional frameworks, adjudicate disputes between branches of government and give real-world meaning to newly constitutionalized rights, all while simultaneously confronting questions about their own legitimacy, independence and integrity.

Yet courts' authority is neither straightforward nor assured. In many transitional contexts, courts inherit legacies of political capture, corruption or complicity in past abuses, leaving them tasked with guiding a new rule-of-law culture while dealing with a lack of public trust. They must also navigate questions of strategy, public perception, and their role within the broader political system to secure compliance with their decisions and sustain their multiple roles, including as bulwarks against democratic backsliding.

This chapter draws on discussions from the Women Constitution-Makers' Dialogue to examine how courts function both as actors and as subjects in constitutional reform. It explores the roles courts play in shaping and implementing new constitutional frameworks; the political, public and structural constraints they face; the strategies through which they build authority and secure compliance; and the common mechanisms used to restore judicial integrity in compromised legal systems.

In many transitional contexts, courts inherit legacies of political capture, corruption or complicity in past abuses.

1.2. COURTS AS ACTORS AND SUBJECTS IN REFORM

Courts participate in constitution making in myriad ways. Some courts are formally empowered to give advisory opinions on draft constitutions or legal questions during a transition. Under the transitional provisions of **South Africa's** 1993 Interim Constitution, the Constitutional Court was tasked with providing opinions on draft provisions when requested by at least one-fifth of the Constitutional Assembly and certifying that the final constitutional text complied with articulated constitutional principles ([section 71](#)). In **Bangladesh**, after the removal of the regime of Prime Minister Sheikh Hasina in 2024, the president called upon the Supreme Court to endorse the legality of the formation of an interim government ([People's Republic of Bangladesh 1972: article 106](#); [Liton and Karim 2024](#)). Courts also frequently play a role in reviewing proposed amendments, verifying procedural requirements (e.g. [article V](#) of the **US** Constitution 1787), ensuring consistency with entrenched constitutional principles (e.g. [article 79\(3\)](#) and [article 93\(1\)](#) of the Basic Law of **Germany** 1949) or evaluating substantive compatibility for compliance with the rest of the constitution, including the core or 'basic structure' of the constitution or, indeed, the 'basic structure' of a democratic constitutional order (e.g. [Sakib 2024](#); [Hoque 2026](#)).

In their non-adjudicative role, judges may act as experts in constitutional law whose knowledge is drawn upon—both directly and indirectly—as a resource during the constitution-making process. **Ghana's** 2025 Constitution Review Committee provides an illustration on both points: the Committee included legal experts, among them a retired Supreme Court judge, and conducted broader consultations with the judiciary on reforms to the justice system ([Judicial Service of Ghana n.d.](#); [Duodu 2025](#); [Opoku 2026](#)). Further, the Commission's final report engaged with prior constitutional jurisprudence, citing Supreme Court decisions and noting where proposed amendments would overturn previous rulings (e.g. [Ghana Constitution Review Committee 2025: paras 1.14 and 2.5](#)).

Courts are frequently a subject of constitutional reform as part of the overall redesign or rehabilitation of the state's justice system.

Finally, courts are frequently a subject of constitutional reform as part of the overall redesign or rehabilitation of the state's justice system. Perhaps the most important reforms relate to insulating the judiciary from undue political influence, and particularly executive control, while preserving accountability. In **Bangladesh**, the Judiciary Reform Commission recommended the creation of a separate judicial secretariat under the Supreme Court with control over administration, budgeting and human resources, alongside broader measures to 'free the judiciary from political influence' ([The Business Standard 2025](#)). It also recommended the establishment of a Judicial Appointments Commission, the institutionalization of seniority in appointing the chief justice, alongside guaranteeing financial autonomy and decentralizing the High Court through regional benches. **Ghana's** 2025 Constitution Review Committee focused on refining the operation of the judiciary within an already functioning constitutional framework. Its proposals included capping the size of the Supreme Court to reduce potential executive control, introducing a single non-renewable term of 10 years for the chief justice, and adjusting jurisdiction and

procedures (including automatic appeals to the Supreme Court) to improve efficiency and credibility (Opoku 2026).

1.3. CONSTRAINTS ON COURTS IN TRANSITIONAL SETTINGS

While constitutional reforms may seek to rehabilitate and recalibrate the judiciary, courts in transitional and reform contexts continue to face a range of pressures and constraints, as reflected in discussions among Dialogue participants. These pressures and constraints shape how proactively or conservatively courts behave in transitional contexts and whether they are able to access and exercise the authority formally granted to them in the constitutional text.

Political pressure can remain particularly acute. Participants described attempts by the executive to influence judicial appointments, threats of disciplinary action and accusations of ‘judicial activism’ aimed at undermining judicial independence and courts’ legitimacy. At the same time, these dynamics also reflect a long-standing tension and concern about ensuring democratic control over unelected and potentially powerful judges. In **Bangladesh**, for example, a former chief justice who refused to deliver a ruling requested by the prime minister, which would have expanded parliamentary control over the removal of Supreme Court judges, was subjected to sustained pressure, including house arrest, and eventually left the country in exile (Liton and Sarkar 2017). More broadly, appointment and promotion processes that remain dominated by the executive may also undermine independence, creating space for patronage networks to flourish and for selective rewards or punishments in response to judges’ actions.

Public pressure can act both as a constraint on, and alternatively as a source of protection for, judiciaries in transition. Participants noted that courts are often caught between competing demands—pressure to deliver transformative outcomes quickly, even when such rapid transformation might outstrip institutional capacity, and resistance by forces in society when such outcomes challenge entrenched interests or social norms. As one participant observed, courts may face backlash from political, religious or cultural powerholders when they intervene on issues relating to ‘identity, religious or ethnic character of the state, [or] the role of women’. At the same time, civil society mobilization can buoy the judiciary by supporting its independence and vocally demanding assertive constitutional judgments. Participants thus revealed that public pressure can operate paradoxically in transitional contexts: it may both enable and constrain courts, depending on the broader political and social environment.

In addition to political and public pressures, courts in transitional contexts are shaped by structural and institutional constraints. Participants emphasized that these challenges are often systemic rather than individual. As one participant noted, problems within the judiciary may reflect ‘decades of

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Public pressure can act both as a constraint on, and alternatively as a source of protection for, judiciaries in transition.

bad practice by judges', rather than isolated misconduct. In **Syria**, such constraints are deeply embedded. Participants described a system in which there was perceived to be 'no integrity, accountability, transparency [or] oversight' and where even identifying 'good' judges was difficult in such an endemically and structurally compromised system. In addition, there were several court systems operating in Syria—some of them informally. Under the al-Assad regime, tribal systems were permitted to maintain and apply their own customs and dispute resolution mechanisms in exchange for political loyalty. Additionally, during the war years, after 2011, courts in the de facto autonomous region in north-eastern Syria operated under their own legal frameworks, at times contradicting Syrian law. Across the three contexts, bar associations and the legal profession face politicization, fragmentation and weak oversight, which may further limit their ability to support judicial independence and broader constitutional reform.

A participant from Syria highlighted that the buildings mirror the physical degradation of the justice system itself.

An often-overlooked aspect of these constraints is the physical infrastructure of the courts themselves. As both a practical and symbolic matter, the material condition of court buildings, the availability of audiovisual and IT equipment, and the accessibility of their locations shape how justice is both perceived and delivered. A participant from **Syria** highlighted that the buildings mirror the physical degradation of the justice system itself, referring to 'rats eating parts of court dockets in dusty rooms', with another noting that the shopping malls are better cared for than the courts. Similarly, a participant from **Ghana** observed that 'the kiosk is nicer than the court sometimes', which impacts how those using the building perceive it and treat it. Participants described how poor infrastructure contributes to undermining the authority of the judiciary and weakening public trust in it, which negatively affects its ability to ensure the effectiveness of justice. In stressing the importance of appropriate infrastructure, the same participant concluded that 'quality justice must be administered from quality'.

1.4. ENFORCING RIGHTS AND (RE-)BUILDING THE RULE OF LAW

Courts can be central to enforcing rights and fostering a rule-of-law culture, a role that is exceptionally complex during transitional moments. Often, courts are expected to go beyond the formal application of the law to form part of a wider-reaching political and social transformation. Scholarship on transformative constitutionalism reflects this expectation, suggesting that judges should actively interpret and enforce rights in ways that reshape institutions and power relations to advance substantive justice ([Kibet and Fombad 2017](#)).

Periods of transition often introduce new constitutional rights—particularly socio-economic rights—that require judicial interpretation for the first time. A prominent example is **South Africa's** 1996 Constitution, which included justiciable rights to housing ([section 26](#)); healthcare, food, water and social security ([section 27](#)); and education ([section 29](#)). **Kenya's** 2010 Constitution

similarly entrenched the right to healthcare, housing, food, water, social security and education under [article 43](#), with both constitutions requiring the state to take progressive action (legislative, policy and other measures) to achieve these rights over time ([Republic of South Africa 1996: sections 26–27](#); [Republic of Kenya 2010: article 21\(2\)](#)).

As part of interpreting these rights, courts often develop new doctrines or adapt existing legal traditions to give effect to constitutional commitments. As articulated by Professor Susan Williams during the Dialogues, judicial decisions can therefore ‘have a powerful educative function ... teaching citizens and powerholders about what the new order is and what it means’. Such rulings can also repudiate oppressive prior systems and break with entrenched cultures of impunity, as illustrated by the 1995 landmark case *S v. Makwanyane*. In this case, the Constitutional Court of South Africa held the death penalty unconstitutional, explicitly invoking the [Interim Constitution’s epilogue](#), which positioned the new constitutional order as a ‘bridge’ away from a past marked by ‘strife, conflict, untold suffering and injustice’ and towards a rights-based and democratic future, thereby rejecting the arbitrary, violent penal system that was a hallmark of colonial and apartheid governance.

However, the ability of courts to play such a transformative role is neither automatic nor assured. The **South African** Constitutional Court was able to articulate and entrench substantive constitutional values through landmark rulings in a context of optimism and broad support for change, but other transitional contexts demonstrate how fragile this role can be. In **Egypt** following the 2011 uprising, courts sought to assert constitutional authority over the transition process, including by dissolving parliament and reviewing the legality of the constituent assembly ([Radwan 2012](#); [Revkin 2012](#)). Yet these interventions were met with direct political resistance. In 2012, President Mohamed Morsi issued a constitutional declaration granting his decisions—including the establishment of a constituent assembly—immunity from judicial review, effectively removing the courts’ ability to act as a check on executive power ([International Federation for Human Rights 2012](#)). Judges were subsequently prevented from carrying out their functions, including being physically blocked from entering the Supreme Constitutional Court to deliver rulings ([Husseini 2012](#)).

In other contexts, rather than relying on judicial interpretation, the constitutional text itself can attempt to reconstruct the foundations of a rule-of-law culture. In **Syria**, the March 2025 Constitutional Declaration states that ‘the judiciary is independent, and judges are subject only to the law’ ([article 43](#)), and it prohibits the establishment of exceptional courts, responding to the previous use of parallel and exceptional courts to suppress and punish opposition ([article 44](#)). The declaration further cancels exceptional laws inconsistent with human rights, annuls rulings from the Counter-Terrorism Court and reverses security measures affecting civil and property rights ([article 48](#)). These transitional-justice measures signal an effort to dismantle elements of the legal architecture associated with authoritarian rule, both prospectively and retroactively, but participants noted, at this stage, these provisions are

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largely symbolic, with many core institutions—including the apex court—not yet fully established nor their jurisdictions fully clarified. The transformative potential of these provisions will depend on how they are implemented in practice.

The capacity of courts to play a transformative role is also constrained by inherited crises of legitimacy.

The capacity of courts to play a transformative role is also constrained by inherited crises of legitimacy. In many transitional contexts, public institutions, including the judiciary, are associated with politicization, patronage and corruption, often rooted in opaque appointment processes and sustained executive influence. Dialogue participants described how these dynamics shape both public perception and institutional behaviour. In some settings, public confidence has eroded to such a degree that rulings are widely assumed to reflect partisan interests and depend on political favour or bribery, as reflected in the observation: ‘Why pay for a lawyer when you can bribe the judge?’

1.5. BUILDING AUTHORITY AND SECURING COMPLIANCE

Beyond their formal roles and powers, the ability of courts to enforce constitutional commitments often relies on their ability to construct and sustain their authority and legitimacy in practice. Dialogue participants suggested this influence emerges through a combination of pragmatic and strategic behaviour, the cultivation of institutional alliances and relationships, and the support of constitutional safeguards (Roux 2009; Klug 2010). The capacity of courts to enforce constitutional commitments may depend as much on these relational and structural conditions as on their formal legal mandate.

First, courts can adopt strategic approaches to the delivery of their rulings. Dialogue participants highlighted several techniques, including issuing extensively reasoned judgments to signal impartiality, employing incremental interpretation to build acceptance over time, and using tools such as delayed invalidation or declaratory relief to avoid direct confrontation with political actors and powerholders. Depending on the institutional design, courts may have varying degrees of control over their docket, particularly at the apex level. In systems with discretionary jurisdiction—such as in some constitutional or supreme courts—judges do not hear every case but instead select from a pool of admissible cases, often prioritizing those that raise significant constitutional questions or have broader systemic implications. Within this context, courts may choose to select emblematic and high-impact cases to signal a sea change in constitutional power and interpretation, as well as a new rule-of-law culture, or they may select early cases that allow for visible but low-risk demonstrations of constitutional commitment with the intent of gradually building and consolidating their authority. In addition to formal judgments, participants also noted the importance of informal modes of judicial engagement. In politically sensitive environments, courts and judges may engage in dialogue with other state actors to clarify constitutional

expectations, avoid escalation and preserve space for judicial action. While such activities may raise rule-of-law concerns, particularly in relation to transparency, procedural formality and strict separation of powers, participants emphasized that in fragile contexts pragmatic strategies may be needed to protect judicial authority and prevent direct confrontation with the executive, which could undermine the court's role altogether.

Second, courts operate within broader ecosystems of constitutional actors whose support can reinforce judicial authority. Bar associations and lawyers, for example, can play a critically important role in defending judicial independence and supporting legal mobilization. They can also support cases that provide opportunities for the courts to advance constitutional transformation, including by providing new and innovative legal arguments based on the new constitutional text that can be taken up by the courts (see Chapter 2: Lawyers and bar associations in constitutional reforms and transitions). Research highlights the significant role of civil society in both the creation and defence of independent judiciaries: civil society actors can amplify judicial decisions, generate pressure for compliance with judgments and mobilize public expectations around rights (Bojarski 2021; see also Aydin-Cakir and Gumuscu 2025). Further, media actors may contribute by enhancing transparency and shaping public perceptions of legitimacy through accurate reporting.

Third, the robustness and sustainability of judicial authority depend on constitutional and institutional guardrails designed to protect courts from political interference. These include transparent appointment and removal procedures, guarantees of tenure and financial independence, and mechanisms to uphold integrity and accountability. As noted by participants, however, formal guarantees are not always sufficient in practice. In some contexts, as in Ghana, financial dependence on the executive may persist despite constitutional safeguards (e.g. Republic of Ghana 1992: articles 127(4)–(7)), contributing to perceptions of political influence or corruption and eroding public trust in the judiciary. Participants described how, in such environments, judicial authority may rest heavily on personal and collective reputational capital, including individual judges' perceived integrity, professional standing and moral authority to resist executive pressure and maintain public trust.

Robustness and sustainability of judicial authority depend on constitutional and institutional guardrails designed to protect courts from political interference.

1.6. RESTORING JUDICIAL INTEGRITY

Judicial integrity is a cornerstone of democratic rule of law. As 'the principal constituents of a public institution are its employees', judges may be subject to processes of investigation and discipline as part of rehabilitating the 'dysfunctional and inequitable institutions that created fear' to become 'efficient and fair institutions that enjoy civic trust' (Office of the United Nations High Commissioner for Human Rights 2006: 3–4). In transitional settings where the judiciary has been systematically compromised, a range of

extraordinary vetting and accountability mechanisms have been used, along with institutional redesign, to restore judicial integrity.

Countries in transition have used various procedures, including lustration, involving the one-time extraordinary screening, removal and exclusion of officials associated with prior regimes (e.g. Czech Republic, [Simačková 2015](#) and Poland, [Suchocka 2015](#)), and targeted or individualized vetting, which assesses judges' integrity, competence and past conduct on an individual basis (e.g. [Albania, Ukraine](#)). A more sweeping mechanism is competitive reappointment, in which all judges are dismissed and required to reapply under revised criteria aimed at promoting the rule of law. In Bosnia and Herzegovina, for example, a reappointment process between 2002 and 2004 resulted in roughly 30 per cent of serving judges and prosecutors not being reappointed ([CEELI Institute 2024: 53](#)).

International standards caution against wholesale 'cleansing' of the judiciary to prevent politically motivated purges.

Yet international standards caution against wholesale 'cleansing' of the judiciary to prevent politically motivated purges, preferring regular accountability measures, such as disciplinary proceedings and asset declarations, if sufficient. Among other safeguards, the United Nations Basic Principles on the Independence of the Judiciary also state that judges should have a right to a fair hearing and be removed only for incapacity or behaviour rendering them unfit, and that any disciplinary measures should be subject to independent review ([United Nations 1990a: paras 18 and 20](#)). The Office of the High Commissioner for Human Rights (2006) further stresses that reform of personnel should be part of a broader institutional reform process that complies with international human rights standards.

Kenya used an individualized approach through the Judges and Magistrates Vetting Board, established in 2011 to ensure judicial standards under the 2010 Constitution. The Board developed standards intended to respect judicial independence while still identifying 'unsuitability'. It distinguished between permissible discretion and differences in judicial approach and conduct that 'immunize[d] the powerful and the wealthy from independent judicial scrutiny', including 'bending of the law' for the powerful ([Judges and Magistrates Vetting Board 2012: para. 49](#)). Under this review, 13 superior court judges were dismissed for reasons of incompetence or corruption, along with a significant number of magistrates ([Bertelsmann Stiftung 2016: 11](#)). The Board's recommendations were carried through to reforms of the Judicial Service Commission, including its reconstitution as a more plural and representative body, enhanced transparency in the appointment of judges, and the strengthening of disciplinary and complaints mechanisms. However, the recommendation for a permanent standalone tribunal to adjudicate serious judicial misconduct was not taken up: all accountability measures are still mediated through the Judicial Service Commission, with constitutionally mandated ad hoc tribunals of superior court judges ([Republic of Kenya 2010: article 168\(5\)](#)).

South Africa offers an alternative pathway—pursuing judicial integrity through an approach that prioritized restorative justice. Instead of a vetting

board, apartheid-era abuses were primarily addressed within the Truth and Reconciliation Commission, which served as a forum for investigating gross violations of human rights and provided a platform for victims and perpetrators to testify. The Commission specifically recommended against lustration or wholesale removal of judges, in part for pragmatic reasons and as a political compromise in the negotiated transition (Klaaren 2007: 150). While the Commission invited a hearing on the legal system under apartheid, no judge appeared in person, and the Commission expressed 'deep regret' at this outcome (International Commission of Jurists 2016: 86–87).

Despite these differing initial strategies regarding personnel, both Kenya and South Africa ultimately relied on institutional redesign and new appointment protocols to foster a decisive cultural shift within their respective judiciaries. Central to this in South Africa was the establishment of the Judicial Service Commission and the creation of the new Constitutional Court, intended to be a 'decisive break not only in terms of doctrine but in terms of personnel' (Klaaren 2007: 159). The Commission introduced a markedly more transparent and participatory process for appointing judges, including public interviews of candidates, ensuring that while the old bench was largely retained, the future of the judiciary would be shaped by a selection process grounded in merit and democratic accountability.

Chapter 2

LAWYERS AND BAR ASSOCIATIONS IN CONSTITUTIONAL REFORMS AND TRANSITIONS

Bar associations operate across multiple spaces—within the legal system, the political sphere and civil society.

2.1. INTRODUCTION

Discussions throughout the Women Constitution-Makers' Dialogue highlighted that the legal profession and bar associations play a critical, though often less visible, role in constitutional transitions. Unlike courts, which are formally entrusted with constitutional interpretation, bar associations operate across multiple spaces—within the legal system, the political sphere and civil society. In principle, through their dual representational and regulatory functions, bar associations can shape access to justice, uphold professional standards, and act as intermediaries between individuals and the state. In doing so, they may contribute to what has been termed 'diagonal accountability' by supporting the independence of the judiciary and the administration of justice. In practice, however, their ability to play this role varies, as the legal profession itself may be subject to reform, politicization or fragmentation during transitional periods.

Drawing on discussions from the Women Constitution-Makers' Dialogue, and in particular the case studies of Bangladesh, Ghana and Syria, this chapter examines how the legal profession and bar associations operate within constitutional transitions. It explores their constitutional recognition, their dual role in enabling or constraining democratic change, the structural and political pressures they face and the conditions under which they can act as effective guardians of constitutions.

2.2. THE LEGAL PROFESSION IN THE CONSTITUTIONAL ORDER

Constitutions generally devote significant attention to the structure of courts, the composition of the judiciary, and issues such as the appointment, tenure and removal of judges. By contrast, much less explicit attention is paid to the role and organization of the legal profession. Nevertheless, legal practitioners

are essential intermediaries between the power of the state and an individual's human and constitutional rights, and this role is reflected in constitutional protections relating to fair trial, the right to defence, due process and access to justice (e.g. [Federal Republic of Germany 1949: article 103\(1\)](#); [Republic of South Africa 1996: section 35\(3\)\(f\)](#)). **Brazil's** 1988 Constitution goes further in recognizing that 'lawyers are indispensable to the administration of justice, and they are immune for their acts and manifestations in the practice of their profession' ([article 133](#)). The **Angolan** Constitution 2010 also recognizes that 'lawyers serve justice and the rule of law' ([article 193\(2\)](#)). Such constitutional provisions reflect the importance of an independent and functioning legal profession to the practical realization of constitutional rights. The UN Basic Principles on the Role of Lawyers³ likewise affirms that lawyers must be able to perform their functions 'without intimidation, hindrance, harassment or improper interference' and that professional associations must be self-governing ([United Nations 1990b: paras 16 and 24](#)).

Some constitutions explicitly recognize bar associations as part of their institutional framework, with regulatory and representative functions shaping the legal profession, its members and the administration of justice. For example, **Angola's** Constitution provides that 'the Bar Association shall be responsible for regulating access to the legal profession and for regulating the profession and legal representation' ([article 193](#)) and further entrusts it with responsibility for legal aid and access to justice ([article 195](#)), while also requiring its involvement to safeguard lawyers during investigations ([article 194\(2\)](#)). While such constitutional recognition can strengthen the institutional role of the legal profession, its effectiveness depends on the independence, accountability and internal governance of the bar association itself, which—like other institutions—is not immune to risks of politicization, patronage or exclusion.

Beyond institutional recognition of bar associations, some constitutions require that key legal positions and some members of independent bodies—such as judicial councils, anti-corruption commissions or other oversight bodies—possess legal qualifications or be drawn from the legal profession, sometimes through nomination by a bar association (e.g. [Republic of Ghana 1992: article 153\(f\)](#)). For example, the Constitution of **Kenya** 2010 provides that the Judicial Service Commission of Kenya includes 'two advocates, one a woman and one a man, each of whom has at least fifteen years' experience, nominated by the statutory body responsible for the professional regulation of advocates' ([article 171\(2\)\(f\)](#)); see also [Republic of South Africa 2012: section 178\(1\)\(f\)](#); [Hickey and Rivera 2025](#)).

Some constitutions require that key legal positions and some members of independent bodies possess legal qualifications.

³ For a more comprehensive list of legal standards and international associations relating to the legal profession, see H. Corell, 'The role of bar associations in promoting the rule of law and defending human rights', [n.d.] <https://www.advokatsamfundet.se/globalassets/advokatsamfundet_sv/corell-role-of-bar-associations-ur-vanbok-anne-ramberg-2019.pdf>, accessed 27 April 2026.

It is not uncommon to see members of the legal profession and judges head interim governments.

2.3. DRAFTERS, DEFENDERS, ENABLERS: THE LEGAL PROFESSION AND BAR ASSOCIATIONS IN TRANSITION AND REFORM

In constitutional transitions and reform, members of the legal profession are key actors in shaping the substance of reforms, the legitimacy of the process and the success of implementation. They can be found in diverse roles, such as drafters, advisors and negotiators, and they often contribute their legal expertise to the constitution-making process itself, as well as the implementation and operationalization of the new text. It is not uncommon to see members of the legal profession and judges—especially those with reputations for neutrality, integrity and professional legitimacy—head interim governments. In **Egypt**, for example, the President of the Supreme Constitutional Court, Adly Mansour, assumed the role of interim president following the 2013 political transition, and in 2025 Gen Z protesters in **Nepal** voted for former Chief Justice Sushila Karki to lead an interim government, reflecting trust in her integrity and leadership to manage political uncertainty (Mulmi 2025). Conversely, lawyers can also be used to give legal veneer to authoritarian rule or democratic backsliding by drafting and defending laws that provide a façade of legitimacy to legal changes that undermine the fabric and functioning of democratic institutions (Bisarya and Rogers 2023). In a parallel way to the judiciary (see Chapter 1: The role of courts in constitutional reforms and transitions), the legal profession has a duality: (a) the capacity to support and uphold the rule of law, rights protection and democratic reconstruction or consolidation; and (b) the potential to provide legal cover and pathways for democratic backsliding, authoritarianism and oppression.

Syria

In Syria, the history of bar associations illustrates this duality. Historically independent, the Damascus Bar Association—the central branch of the Syrian Bar Association—mobilized forcefully to defend the rule of law, as evidenced in its 1978 resolution rejecting emergency courts as ‘contrary to the law and principles of justice’ (International Bar Association Human Rights Institute 2011: 33). Facing a crackdown after a nationwide strike, the Bar Association was suppressed by the regime and made a tool of the ruling Baath Party, eventually becoming, in the words of the Dialogue participants, ‘almost a security agency’. During the 2011 revolution, lawyers who did not side with the regime faced harassment and detention, with human rights lawyers even disciplined by the Syrian Bar Association for ‘spreading false, exaggerated and distorting news that undermines the State’s standing and reputation abroad’ (International Bar Association Human Rights Institute 2011: 5). Lawyers in opposition-held areas began establishing alternative professional bodies, including initiatives such as the Free Syrian Lawyers Association, founded in 2012. Over time, multiple ‘free’ or independent bar associations emerged across different territories, with a more coordinated ‘Free Bar Association’ structure later established in 2019 to create space for an independent legal profession beyond state control. Nevertheless, branches of the Free Bar Association have been dogged by disputes and infighting (Legal Action Worldwide and Syrians for Truth and Justice 2024: 9), with allegations of fraud,

During the 2011 revolution, lawyers who did not side with the regime faced harassment and detention.

boycotts of elections by regional branches and claims of interference by the Syrian Interim Government ([Syrians for Truth and Justice 2024](#)).

After President al-Assad was removed from power, the transitional authorities led by Hayat Tahrir al-Sham moved to restructure the legal profession, replacing the elected council of the central Damascus branch of the Syrian Bar Association—the official nationwide professional body—with appointees linked to parallel legal institutions developed in opposition-held territories during the civil war. In response, Syrian lawyers mobilized to demand democratic elections and the restoration of professional autonomy, including through organized petitions calling for an independent bar association ([Ibrahim 2025](#); [Sallon 2025](#); [Syrian Bar Association 2024](#)).

Looking ahead, Dialogue participants from Syria stressed that any new constitution must entrench guarantees for the independence of both the judiciary and the legal profession, including financial autonomy and transparent appointment criteria if bar associations are to move beyond perceptions of politicization and being an extension or a tool at the disposal of the executive. In addition, safety guarantees and opportunities for lawyers to coordinate across regions could support efforts to develop a collective voice and shared vision for the democratic role of lawyers and bar associations in building a new Syria.

Bangladesh

Bangladesh has a hybrid bar association structure, with the Bangladesh Bar Council (statutory regulator) and the Supreme Court Bar Association (SCBA) (a voluntary professional body). The SCBA has historically enjoyed a reputation for being strong and independent, and it has mobilized several times to defend the rule of law. For example, it joined nationwide protests during the 1975 and 1982 emergencies in defence of democracy, challenged the Eighth Amendment, which sought to restructure the High Court Division, and adopted multiple resolutions in 1983 calling for the restoration of constitutional rule and judicial independence ([Uddin 2006](#)). Nevertheless, under the regime of Sheikh Hasina, the SCBA was described by the participants as deeply politicized, with Awami League–associated lawyers at times completely dominating the Bar Association’s executive leadership amid contested (and sometimes violent) elections. After the collapse of the regime of Sheikh Hasina, courts ordered the detention of at least 70 impugned lawyers, and opposition-aligned lawyers assumed interim leadership of the SCBA ([New Age 2024](#)). This appears to constitute a rapid reconfiguration of the bar, but it remains deeply shaped by partisan affiliation.

Compared with Syria, therefore, the Bangladesh bar faces a different but equally significant set of challenges, though some underlying issues overlap. While politicization, particularly within the SCBA, has shaped leadership and institutional dynamics, Dialogue participants noted that other systemic constraints lie in weaknesses in legal education, professional standards and inclusivity. After passing the bar exam, legal practitioners receive no mandatory continuing legal education. Participants linked these issues to

After the collapse of the regime of Sheikh Hasina, courts ordered the detention of at least 70 impugned lawyers.

Participants linked these issues to inconsistent professional standards and growing public concern about access to justice.

inconsistent professional standards and growing public concern about access to justice, which is now viewed as a ‘luxury’ available to the few with resources. These challenges are compounded by the deep entanglement of the legal profession with party politics. A significant number of lawyers actively pursue political careers: in the latest elections, approximately 270 lawyers contested nationwide, including senior bar leaders (Islam 2026). This may reinforce partisan divisions within the profession and further politicize bar association governance. While the Bangladeshi bar retains a history of mobilization and political relevance, these dynamics may weaken the bar association’s ability to act as an inclusive and cohesive constitutional actor, potentially inhibiting its ability to strengthen and protect the rule of law.

Ghana

The Ghana Bar Association (GBA), which participants described as comparatively robust, faces internal and external challenges in relation to executive pressure and its dominant role in regulating the profession. Although membership is not legally mandatory, all lawyers admitted to practise in Ghana are automatically enrolled as members of the GBA by convention (Hesse 2006). This de facto monopoly has recently been challenged at the Supreme Court, with the Court issuing an interim order preventing the GBA from presenting itself as the sole representative body pending resolution of the case (Akpalu 2025; Anyetei 2025).

In February 2022 a new voluntary body, the Law Society of Ghana (LSG), was established, claiming to reflect the plurality contemplated under article 21(1)(e) of the 1992 Constitution, which guarantees freedom of association, including the right to form or join trade unions or other professional groups. Proponents view the LSG as a source of ‘healthy competition’ that may better address issues such as low pay for junior lawyers (Antiedu and Larbi 2022). In January 2026 the LSG’s power to accredit attorneys was challenged in court (GhanaWeb 2026). Further, debates surrounding the future of the GBA have intensified in the context of the 2024–2025 constitutional review process, which recommended removing explicit references to the GBA from the Constitution as part of a broader effort to eliminate named private bodies from the text. GBA President Yaw Boafo has criticized this proposal as politically motivated, warning that it risks weakening the association’s position within Ghana’s constitutional architecture, especially given its current role in nominating lawyers to key constitutional positions (Donkor Distinguished 2026).

These developments highlight a broader constitutional design dilemma: where bar associations are assigned formal roles in nominations or governance, constitutions may need to clearly define the relevant bodies and their mandates, while exercising caution in entrenching what are, in essence, private professional organizations within the constitutional framework.

The GBA is therefore experiencing increased pressure on its traditional institutional role and has been in direct tension with the executive. This dynamic was particularly evident in the 2025 process to remove Chief

Justice Gertrude Torkornoo, where the bar initially adopted a cautious stance calling for adherence to constitutional procedure but subsequently called for the revocation of the suspension as unconstitutional, prompting criticism from the executive. The GBA has stalwartly defended its advocacy and interventions, particularly in relation to judicial independence and due process ([ModernGhana 2025](#); see also [Ankah 2025](#)).

2.4. SECURING INDEPENDENCE AND MOBILIZING FOR REFORM

Bar associations must secure appropriate levels of legal, financial and operational autonomy to ensure that they can act effectively and independently ([United Nations General Assembly 2018b: 7–8](#)). External funding from governments or donors may compromise this independence, as it can create both subtle and overt forms of influence on positions and priorities. In March 2026, for example, **Uganda's** Law Society refused an outstanding presidential pledge of UGX 5 billion (approximately USD 1.3 million), stating that 'reliance on government donations risks compromising its constitutional role as a watchdog and defender of the rule of law' ([Naimanye 2026](#)).

As noted during the Dialogue, a bar association's ability to mobilize may also be related to its membership model. Mandatory (or unified) bars, where membership is required to practise law, may allow the group to collectively act as a coherent and authoritative representative for the profession and 'a powerful voice' during constitutional reform. However, centralized structures may raise concerns about gatekeeping and vulnerability to political capture, particularly where leadership selection processes are weak or subject to external influence. Plural or voluntary bars can foster diversity and autonomy but risk fragmentation with certain associations supporting specific ethnic or other interests or aligning closely with a political party, potentially undermining their independence. There are also contexts in which there is a hybrid structure, such as in **Bangladesh**, which has a mandatory regulatory Bar Council and numerous voluntary bar associations, including the Supreme Court Bar Association.

While the model and institutional structure do shape dynamics, they do not determine how effectively bar associations operate in practice. In **Bangladesh**, where participants described access to justice as increasingly unequal, Dialogue participants emphasized a need for mandatory pro bono service and stronger education–practice linkages via continuing legal education. In **Ghana**, participants raised concerns about declining public-interest engagement, and participants highlighted the importance of increasing access to justice, compelling meaningful participation in legal aid programmes and reinforcing ethical accountability. In **Syria**, division and politicization of bar associations have historically limited their ability to effectively mobilize in support of the rule of law. Syrian lawyers who attempted to challenge abuses or engage in constitutional debate faced the possibility of detention, increasing the professional and personal risk of mobilization activities. Although Syria is

Bar associations must secure appropriate levels of legal, financial and operational autonomy to ensure that they can act effectively and independently.

now in a transitional period, fears remain that bar associations could once again be subject to political capture and abuse. Participants underscored the need for targeted international support to help reclaim the bar association's role, particularly through supporting independent professional governance, protection of lawyers at risk and initiatives to improve access to justice for women, children and other vulnerable groups.

2.5. BAR ASSOCIATIONS AS GUARDIANS OF CONSTITUTIONAL TRANSFORMATION

When bar associations function effectively, they are key actors in promoting the rule of law and stewarding a rule-based, rights-based constitutional and democratic order. This guardianship comes in the form of monitoring judicial independence, providing legal aid, regulating professional standards, and contributing technical expertise to policy and legislative development. In many jurisdictions, especially those with judicial councils, representatives of the legal profession also participate in the judicial vetting and appointment process, typically through nominating or consultative roles intended to increase the independence and competence of those appointed.

A leading example of successful bar association mobilization is the Law Society of **Kenya** (LSK), which has institutionalized public-interest litigation as a core strategy for the 'realization of the aspiration and rights enshrined [in the 2010 Kenya Constitution]' (LSK n.d.). It has brought cases such as *Law Society of Kenya v. Attorney General*, which challenged the government's deployment of the military in response to civil demonstrations. This case ultimately reinforced constitutional protections for peaceful protests in Kenya. In addition, in 2020 the LSK mobilized to successfully challenge executive orders that seemingly placed independent institutions and the judiciary under the executive (Ayega 2020). The High Court agreed that such actions would undermine the separation of powers and the independence of constitutional offices.

Legal education emerged in the Dialogue as a determinant of whether the legal profession can fulfil its role in protecting and promoting the rule of law.

However, the ability of bar associations to play this role largely depends on the composition, values and professional identity of the legal community itself. Legal education emerged in the Dialogue as a determinant of whether the legal profession can fulfil its role in protecting and promoting the rule of law. Participants stressed that lawyers' mindset and identity are shaped early in their career. In many settings, lawyers see themselves primarily as technicians rather than as constitutional actors responsible for, or capable of enacting, reform, a perception that can facilitate democratic backsliding (Hendley 2025). To counter this perception, ethics and social justice must be mainstreamed across all levels of legal education, particularly undergraduate, in bar examinations and through continuing legal education. In addition, participants emphasized the value of clinical legal education, including free legal aid clinics, to expose students to the vast inequalities in legal access, inculcate a public-service mindset and better equip young lawyers for pro bono service. This was certainly evident in **South Africa**, where the transition to democracy created

a demand for law schools to produce graduates equipped with the technical and analytical skills and, in particular, the social conscience necessary to implement the Bill of Rights ([Whitear-Nel and Freedman 2015](#)).

These questions of professional formation are closely linked to issues of representation and inclusion within the legal profession. Participants in **Bangladesh** stated that female law students need to see women occupy positions in the legal profession to be able to envision their own futures in it and change the social norms for women in law. In **Ghana**, participants highlighted how women in law face widespread harassment, bias and pressure to leave the field ([Minkah-Premo 2024](#)). At the same time, the 2024 election of Edua Ghartey as the first female President of the Ghana Bar Association provides an important model for female law students ([GhanaWeb 2024](#)). In transitional contexts, these questions of representation are particularly salient. In **Syria**, where the legal profession is undergoing reconstitution following prolonged politicization and conflict, lawyers have called for inclusive and democratically elected bar councils, including equitable representation of women, as part of broader efforts to rebuild the independence and legitimacy of the profession ([Syrian Bar Association 2024](#)). In sum, bar associations that implement strong internal democracy, secure finances and engage strategically can transform themselves into guardians of constitutional order. They do so by reinforcing the rule of law through oversight and advocacy and by cultivating a diverse legal profession committed to upholding democratic norms.

Finally, the role of bar associations increasingly extends beyond the domestic sphere, highlighting both opportunities and tensions in transnational support for rule-of-law development. International bar associations and legal networks can reinforce professional standards, amplify due process concerns and provide external scrutiny. The International Bar Association's Human Rights Institute, for example, called for a reconsideration of recent trials conducted in **Bangladesh**—including the sentencing of former Prime Minister Sheikh Hasina to death in absentia—and warned that such proceedings, which appear to fall short of international fair trial standards, 'signal democratic backsliding' ([International Bar Association Human Rights Institute 2025](#)). Another example comes from **Ghana**, where, following the suspension of Ghana's chief justice, the Bar Council of England and Wales and the Commonwealth Lawyers Association called for her reinstatement and raised concerns about due process and judicial independence, echoing the position of the Ghana Bar Association ([Bar Council of England and Wales and Commonwealth Lawyers Association 2025](#)). Ghana's attorney general rejected these calls, stating that the process was governed by domestic constitutional procedures and should not be subject to external pressure ([Graphic Online 2025](#)), showing how engagement can generate resistance.

In Syria, lawyers have called for inclusive and democratically elected bar councils, including equitable representation of women.

Chapter 3

WOMEN'S LEADERSHIP IN CONSTITUTIONAL REFORM AND THE LEGAL PROFESSION

Men continue to be numerically overrepresented in constitutional negotiations and positions of institutional authority.

3.1. INTRODUCTION

As explored throughout the years of the Women Constitution-Makers' Dialogue, women's leadership during constitutional reform and transitions emerges not only through formal participation in decision making but also through the informal infrastructures that women cultivate within these processes—communication, solidarity, mentorship and the sharing of lived experiences.

Despite significant advances in women's political and legal participation over previous decades, men continue to be numerically overrepresented in constitutional negotiations and positions of institutional authority. Participants described occupying a 'limited and precious position', requiring careful strategizing about how to use their political capital to advance women's equality in situations where it may be sensitive or risky given the social or political climate. Similar dynamics play out in legal reform processes, judicial institutions and bar associations, where women's authority continues to be contested and closely scrutinized.⁴

This chapter draws on the discussions at the Dialogue to examine how women exercise leadership during constitution making; how constitutional design interacts with women's participation in courts and the legal profession; how gendered barriers constrain, silence or even endanger women's voices; and how women can forge pathways of solidarity and mentorship to sustain constitutional and legal leadership across generations.

⁴ International law and standards also emphasize the importance of women's participation in public life, legal institutions and decision making. See articles 7 and 8 (political and public life) of the [Convention on the Elimination of All Forms of Discrimination against Women](#) and Committee on the Elimination of Discrimination against Women, [General Recommendation No. 23 on women in political and public life \(1997\)](#). See also [General Recommendation No. 33 on women's access to justice \(2015\)](#), which calls on member states to ensure women's equal participation within judicial institutions. The UN Women, Peace and Security (WPS) agenda further underscores the importance of women's meaningful participation in conflict prevention, peace processes and post-conflict governance, including constitution making and justice sector reform. See [United Nations Security Council Resolution 1325 \(2000\)](#) and subsequent WPS resolutions.

3.2. WOMEN'S PARTICIPATION AND INFLUENCE IN CONSTITUTION MAKING

Across the Dialogue, participants reflected on the constitutional frameworks of their countries, ongoing constitutional reforms and the extent to which these frameworks shape women's access to political decision making, judicial office and the legal profession more broadly. Several noted that during their own constitutional drafting or reform processes, women were significantly underrepresented. In **Bangladesh**, this exclusion was particularly stark. The 2024 Constitutional Reform Commission included only 1 woman among its 10 members. The National Consensus Commission, established in early 2025 to finalize proposed reforms, consisted of eight men and no women. In fact, the Commission's membership was drawn from 6 of the 11 reform commissions, excluding a representative from the Women's Affairs Reform Commission (Hossain 2026). Representation was stronger in other contexts. In **Ghana**, for example, women made up three of eight members (37.5 per cent) in the 2025 Constitution Review Committee. In **Syria's** 2025 Drafting Committee of the Interim Constitutional Declaration, two of seven members were women.

The lack of mainstreamed inclusion of women in these processes persists despite evidence, as explored in a previous iteration of the Women Constitution-Makers' Dialogue, of the leadership and political vision of women in protest movements that frequently catalyse into constitutional reform processes, only for opportunities for meaningful participation to narrow once formal processes begin (Houlihan 2023). Across the board, participants emphasized that representation alone does not guarantee influence. Token inclusion—the presence of one or two women in larger bodies—rarely shifts deeper power dynamics in constitutional negotiation. Where women are few in number, they may self-censor or find their contributions sidelined. Leadership therefore requires more than presence at the negotiating table: it requires structural conditions that enable meaningful participation and the sustained impact of women.

3.3. CONSTITUTIONAL EQUALITY GUARANTEES AND WOMEN'S REPRESENTATION

Two members of the Dialogue were directly involved in the drafting and implementation of the **Kenyan** and **South African** constitutions, offering practical insights into how constitutional guarantees can support women's representation in public institutions.

South Africa's 1996 Constitution provides a foundational example. It enshrines substantive equality (section 9), prohibiting unfair discrimination and expressly permitting measures designed to protect or advance those disadvantaged by such discrimination. In making judicial appointments, the Constitution requires consideration of 'the need for the judiciary to reflect broadly the racial and gender composition of South Africa' (article 174(2)). For the period

Two members of the Dialogue were directly involved in the drafting and implementation of the Kenyan and South African constitutions.

2023–2024, it was reported that 47 per cent of superior court judges were women, as were approximately 54 per cent of magistrates ([Judicial Service Commission 2024: 16](#)). The Legal Practice Council of South Africa reported that approximately 45 per cent of attorneys were female as of 2024 ([Judges Matter 2024](#)). This equality framework, coupled with strong civil society mobilization and party-level quotas, has also contributed to one of the highest proportions of women in parliament in Africa, with women making up 45 per cent of members of the National Assembly ([Inter-Parliamentary Union n.d.b](#)).

Kenya's 2010 Constitution reflects and builds on many of these equality-oriented provisions. Like virtually all modern constitutions, Kenya's 2010 Constitution contains strong gender equality guarantees, including [article 27](#), which prohibits discrimination on the basis of sex. The Constitution further requires the state to take legislative action to 'redress any disadvantage suffered by individuals or groups because of past discrimination' ([article 27\(6\)](#)). The two-thirds principle ([article 81\(b\)](#) and [article 27\(8\)](#)) requires that not more than two-thirds of the members of elected or appointed bodies be of the same gender. The Constitution also encourages greater gender balance in judicial appointments. For example, in relation to the composition of the Judicial Service Commission, the Constitution specifies that certain membership categories must comprise 'one man and one woman' ([article 171\(2\)](#)).

The overall ethos of increasing gender equality may have contributed to comparatively high levels of women's participation within Kenya's legal institutions.

Although implementation of the two-thirds principle has been uneven, particularly in relation to the proportion of women in parliament, which sits at 23 per cent ([Inter-Parliamentary Union n.d.a](#)), its constitutional entrenchment has provided fertile ground for advocacy and litigation around its implementation and ensured an ongoing judicial conversation about its fulfilment. More broadly, the overall ethos of increasing gender equality may have contributed to comparatively high levels of women's participation within Kenya's legal institutions: in 2022, women constituted 44.6 per cent of the Kenyan Law Society ([Institute for African Women in Law 2023: 12](#)). Women also hold a significant share of judicial offices: approximately 47 per cent of judges and almost 50 per cent of magistrates are women ([Miruka 2024](#)). This progress extends to the highest level, including the appointment of a female chief justice and a gender-equal Supreme Court bench in 2026 ([Judiciary of Kenya n.d.](#)).

3.4. NEGOTIATING GENDER EQUALITY IN PRACTICE: GHANA, BANGLADESH AND SYRIA

Participants outlined how the ongoing constitutional reform processes in Ghana, Bangladesh and Syria mirror the persistence of structural inequalities both within and outside these processes, with women's representation in the legal profession serving as one indicator of broader patterns of inclusion and exclusion.

Ghana

Debates emerging from Ghana's current constitutional reform process illustrate how constitutional revision can serve as a platform to take stock of existing constitutional commitments to women's leadership and gender equality in public institutions. A Constitution Review Committee established in 2025—composed of eight members, including three women—undertook nationwide consultations and stakeholder engagement on proposed amendments to the 1992 Constitution (Opoku 2026).

Ghana's 1992 Constitution contains a strong formal commitment to gender equality, but concerns persist regarding provisions that frame women primarily in caregiving roles and the limited implementation of equality guarantees in practice. Ghana's 2025 Constitution Review Committee recommended amendments to strengthen substantive gender equality. These proposals include revising article 27 to remove language premised on traditional caregiving roles and to guarantee women's economic independence and full participation in public life; explicitly authorizing affirmative action under article 17; converting the current aspiration of gender balance in public appointments under article 35(6) into a binding constitutional obligation; and strengthening provisions on women's economic rights, including equal access to land, credit, inheritance and employment (Ghana Constitution Review Committee 2025: para. 6.15). The need for these reforms is underscored by structural inequalities affecting women's economic and political participation; for example, 80 per cent of land in Ghana is governed by customary law, and 85 per cent of women lack formal land titles, leaving them vulnerable to dispossession (Kouam, Orija and Okai-Nartey 2025: 36 and 38). In addition, Ghana's Constitution defines a 'chief' to include both men and women (article 277), yet the National House of Chiefs remains entirely male, prompting calls to rename and reform the institution so it visibly includes queen mothers (Afful 2023).

At the same time, developments within Ghana's legal profession demonstrate significant progress in women's representation since the 1992 Constitution was enacted. As of early 2026, the judiciary in Ghana had reached near gender parity (Elpe 2026). Since the adoption of the 1992 Constitution, Ghana has had eight chief justices, three of whom have been women—Georgina Theodora Wood (2007–2017), Sophia Akuffo (2017–2020) and Gertrude Torkornoo (2023–2025)—signalling changing attitudes towards women's leadership at the highest levels of legal institutions over roughly three decades, particularly since 2007. Nevertheless, advances are not uniform. There remains significant underrepresentation of women in Parliament, where they held just under 15 per cent of seats as of 2026 (Elpe 2026). Ghana currently uses a first-past-the-post electoral system, which tends to inhibit women's electoral success (Venice Commission 2019). In light of this issue, the Constitution Review Committee endorsed further study of the possible introduction of proportional representation, noting that such a system could enhance opportunities for women, youth and other politically marginalized groups to gain representation in Parliament (Ghana Constitution Review Committee 2025: para. 2.2).

Since the adoption of the 1992 Constitution, Ghana has had eight chief justices, three of whom have been women.

Bangladesh

While women played a highly visible role in the 2024 Monsoon Revolution that triggered the collapse of the previous authoritarian government, observers have argued that they were subsequently sidelined in the political transition, with women's expertise marginalized and confined to gender-specific topics ([International Crisis Group 2024](#)).

Bangladesh's 1972 Constitution contains a formal commitment to equality, with [article 27](#) guaranteeing equality before the law, while [article 28](#) prohibits discrimination on the grounds of religion, caste, sex or place of birth. Importantly, [article 28\(2\)](#) affirms that women have equal rights with men in all spheres of the state and public life. [Article 28\(4\)](#) authorizes the state to make 'special provision' in favour of women, children and disadvantaged populations, enabling affirmative action measures. In addition, [article 65\(3\)](#) provides for reserved seats for women in Parliament. These reserved seats are allocated proportionally among parties, enhancing descriptive representation of women but raising concerns about women's substantive political representation.

Women remain a small minority within Bangladesh's judiciary: just 10 per cent in higher courts.

These challenges extend beyond politics to women's representation in the legal profession. Women remain a small minority within Bangladesh's judiciary: just 10 per cent in higher courts, and around 23 per cent in the lower courts ([Sarkar 2025](#)). Dialogue participants noted that entrenched barriers and stereotypes have contributed to Bangladesh never having had a female attorney general, Bar Council president or Bar Council secretary. Participants also emphasized that women's representation at the highest levels of political leadership does not necessarily translate into broader empowerment of women: Bangladesh has had a female prime minister, but meaningful progress depends on whether leadership—regardless of gender—actively expands political space, rights and opportunities for women across society.

These dynamics were also visible in the reform process that followed the 2024 uprising. A number of thematic reform commissions were established, including a Constitutional Reform Commission, a Judiciary Reform Commission and a Women's Affairs Reform Commission chaired by the prominent activist Shireen Huq. Most of the reform commissions had limited representation of women, with at least one having no women at all ([Prothom Alo 2024](#)), illustrating a recurring pattern in which women's expertise and perspectives are siloed into 'gender issues' rather than integrated across all topics of importance. Nevertheless, the Women's Affairs Reform Commission produced an extensive set of proposals to transform the legal and constitutional framework governing women's rights in Bangladesh ([Mustafa 2025](#); [UNB 2025](#)). Many of these proposals, and the existence of the Commission itself, provoked strong opposition from Islamist coalitions such as Hefazat-e-Islam, while women's organizations mobilized in support through the Women's March for Solidarity in May 2025 ([Begum 2025](#); [The Daily Ittefaq 2025](#)).

The July Charter—a broad political agreement among major actors intended to stabilize the transition and establish reform priorities while deferring

contentious constitutional questions to a future elected government—proposed that women's reserved seats in Parliament 'shall be progressively increased to a total of 100' ([People's Republic of Bangladesh 2025: para. 21](#)). Some of the charter's proposed reforms were approved by referendum alongside the February 2026 election, which produced a Bangladesh Nationalist Party-led legislature, which was expected to also sit as a Constituent Assembly ([Hossain 2026](#)). In that election, however, women fared poorly: only seven women were directly elected. One of the participants in the Women Constitution-Makers' Dialogue was among this small group of women elected to Parliament in 2026—an achievement that illustrates both the rarity of such successes and the barriers that continue to limit broader representation. As a result, Parliament will have very few directly elected women, reinforcing the concern expressed by Dialogue participants that women remain 'structurally marginalized' within Bangladesh's formal political system, where candidate selection processes and entrenched patriarchal norms limit women's access to winnable constituencies. Whether the Constituent Assembly will revisit the sweeping reforms proposed by the Women's Affairs Reform Commission remains to be seen.

Syria

In Syria, constraints on women's access to political and economic decision making have historically been severe, with a large gap between constitutional rhetoric and women's lived realities. Prior to the fall of the al-Assad regime in December 2024, [article 23](#) of the 2012 Constitution promised women 'all opportunities enabling them to effectively and fully contribute to the political, economic, social and cultural life', and stated that 'the state shall work on removing the restrictions that prevent their development and participation in building society'. These guarantees were in practice weak and undermined by a repressive legal framework that included discrimination against women in criminal, religious, family, labour, nationality and inheritance laws ([European Asylum Support Office 2020](#)). Under President al-Assad, the number of women in Syria's judiciary actually increased, and some were promoted to positions of authority, including presiding over the Counter-Terrorism Court that enabled the persecution of political opponents ([Cardinal 2023: 1170](#)). In this way, some women served in the machinery of repression under the regime of President al-Assad, illuminating again how numerical inclusion does not necessarily translate into gender equality, fairness, justice or democracy.

At the same time, feminist organizing continued both within Syria and in exile, with women's networks increasingly framing their demands through constitutional reform. In the years preceding the March 2025 Constitutional Declaration drafting process, the Syrian Women's Political Movement and allies produced a comprehensive, gender-responsive constitutional analysis ([Syrian Women's Political Movement 2020](#)) and demanded a transition in which women would be recognized as full partners and 'architects of [the] constitutional, economic, and political future' ([Jalabi 2025](#)). While the earlier UN-facilitated constitutional process had incorporated a variety of women's voices ([Audouy 2025; Draji and Hwijeh 2025](#)), the 2025 Constitutional Declaration was drafted at the highest political levels, with the seven-member

Whether the Constituent Assembly will revisit the sweeping reforms proposed by the Women's Affairs Reform Commission remains to be seen.

drafting committee including two female scholars. Women's groups strongly criticized both the process of drafting the declaration and its substance. Although the declaration included an anti-discrimination clause (article 10), other provisions have been criticized by women's groups as reflecting a more restrictive and patriarchal lens. Article 21 of the declaration defines women's status through their 'role within the family and society'. Coupled with this, the declaration states that 'Islamic jurisprudence is the *principal* source of legislation' (emphasis added), compared with a 'major source' as in the 2012 Constitution (article 3).

The Syrian Women's Council rejected the declaration as exclusionary to women and ethnic and religious minorities, describing it as 'in direct contradiction to the principles of justice and equal citizenship', a position echoed by other activists and non-governmental organizations (Hawar News Agency 2025a, 2025b; Sadeghi 2026: 28–29). The Syrian Feminist Lobby similarly warned that the Constitutional Declaration risked confining women to domestic roles and failed to guarantee their participation in public life, while also criticizing the formation of a new government that included only one woman in the cabinet. As in Bangladesh, this trend seems set to continue: the new People's Assembly, an interim parliament that is currently being formed and will likely function as a constituent assembly for drafting the new constitution, has just 6 women among its 126 members, although it remains to be seen if the president will take steps to address the gender imbalance through his appointment of 70 members (Farhat 2025).

3.5. WOMEN IN THE LEGAL PROFESSION AND JUDICIARY: IMPACT AND GENDERED RISK

Women's presence and leadership in the judiciary and legal profession play an important role in shaping the interpretation and implementation of constitutions. Beyond the necessity of women's inclusion in the judiciary as fundamental to legitimacy, empirical studies show that women's presence enhances the deliberative quality of courts, influences the behaviour of male colleagues and directly impacts case outcomes, as seen in relation to sex discrimination, sexual harassment, divorce and property issues (Peresie 2005; Hunter 2015; Boyd, Epstein and Martin 2010; Gayoye 2021; Asni and Iqbal 2025).

Dialogue participants likewise described how conversations surrounding rights and justice fundamentally shift when women judges are in the room.

Women judges have also shared how their lived experience and perspective can shape judicial reasoning and is reflected in their judgments (e.g. Malik 2021; United Nations Development Programme 2026). Dialogue participants likewise described how conversations surrounding rights and justice fundamentally shift when women judges are in the room, and that approaches differ markedly from those of their male colleagues, particularly in areas such as family law, violence against women, gender equality and procedural fairness. As reported by one participant, 'The constitution promises equality; women judges make it visible.'

At the same time, women judges, and women in public life more generally, continue to face pervasive stereotypes that undermine their authority, sometimes encountering a 'presumption of incompetence' that requires a flawless performance to overcome, whereas their male counterparts enjoy a presumption of competence. They are furthermore subject to heightened institutional scrutiny, labelled as 'rabble-rousers' for challenging the status quo ([International Commission of Jurists 2014: 13–14](#)). In some jurisdictions, these dynamics are compounded by formal or customary restrictions on women's participation in the judiciary. In legal systems heavily influenced by religious law, such as **Saudi Arabia** and **Syria**, women are formally or customarily excluded from certain judicial roles, including serving as Sharia judges or presiding over criminal courts ([ESCWA 2019](#)).

Dialogue participants described how visibility in political and legal spaces can carry significant personal and professional risk, which is often increased and exacerbated through digital means. Research from across jurisdictions confirms how women in politics and the legal profession face disproportionate levels of professional hostility, harassment, gender stereotyping and exclusion from decision-making positions. In more extreme cases, women in public life have also faced organized campaigns of intimidation, harassment, and physical and sexual violence targeting both themselves and their families (e.g. [Inter-Parliamentary Union 2016, 2021](#); [United Nations General Assembly 2018a](#)).

In **Bangladesh**, participants described how questioning gender equality progress or interpretations of Islam can provoke backlash, causing women to self-censor out of fear of reputational harm or harassment. Women must carefully weigh whether speaking openly might expose them to reputational attacks or professional consequences. As discussed during the Dialogue, in some situations 'it may be a matter of safety not to bring something up that will nonetheless affect [women] later on'. Participants from **Syria** described similar pressures. As one participant explained, when only one woman raises an issue related to women's rights or religious law, 'it is very easy to attack her', placing women under intense scrutiny and forcing them to carefully calculate how and when to express their opinions. Dialogue participants also noted that women in constitutional processes are often questioned regardless of their position—accused of being either 'too feminist' or not feminist enough, an example of how women's authority continues to be contested in ways that men's authority typically is not.

Without addressing these deeply entrenched political, legal and social constraints, women's leadership in courts, the legal profession and constitutional processes will continue to face persistent barriers. Tech-enabled forms of harassment, surveillance and data misuse further heighten risks for women participating in public life and reinforce self-censorship. In this context, safeguarding women's voices also requires protecting their digital presence and sensitive information, particularly in environments where data may be exploited by hostile actors or used for political targeting ([Shelley 2026](#)). Without active and targeted removal of such obstacles to women's full

Dialogue participants described how visibility in political and legal spaces can carry significant personal and professional risk.

participation in public life, the consequence is not only the marginalization of women themselves but a loss for constitutional futures, which are deprived of the full range of perspectives, priorities and innovations that women contribute to the development of law and justice.

3.6. FORGING NEW PATHWAYS: NETWORKS, MENTORSHIP AND INTERGENERATIONAL SOLIDARITY

Despite the evident risks and structural barriers women face, participants emphasized the importance of forging new pathways for women's influence in decision-making spaces, including across generations.

Women described the creation of informal, or 'shadow', networks of trust and safety to navigate environments where formal institutions are weak or hostile towards women's leadership. These informal networks provide emergency coordination, emotional support and information highways. **Syrian** participants discussed discreet communication practices in some localities where they might feel threatened, in addition to solidarity networks that had enabled their work to continue under surveillance. In **Ghana**, participants noted how informal peer networks play a stabilizing role when women are excluded from formal leadership positions, and emphasized the need for safe, women-only spaces where they could speak freely about social and political issues without professional repercussions.

Intergenerational relationships and mentorship emerged as particularly significant.

Intergenerational relationships and mentorship emerged as particularly significant. Women explained how younger practitioners often look to senior women judges and lawyers not only on career advancement but also for practical strategies to navigate gendered risks. In **Ghana**, Justice Sophia Akuffo described her transition to the Supreme Court as only the second female judge. The first female judge on the Supreme Court, Justice Joyce Bamford-Addo, provided mentorship and support. Justice Bamford-Addo emphasized the importance of 'passing forth' the support one has received, both for the advancement of women and for the strengthening of the nation as a whole.

At the same time, participants acknowledged that competitive or politically fractured legal environments can strain solidarity. In **Bangladesh**, participants noted that a culture of intense competition within the legal profession has seemingly disincentivized women from collaborating, particularly where opportunities for advancement are limited.

The curation of shared spaces of intellectual and emotional solidarity within the Women Constitution-Makers' Dialogue—and the deliberate act of listening and exchanging perspectives—has itself generated concrete outcomes. Sanaa Alsarghali from Palestine, inspired by the Dialogues, developed a university-level course on Women's Participation in Constitution Making: Case Studies from the Middle East. The course and connected initiatives, like

student-led conferences, such as 'Voices for Change', are designed to examine constitutional reform from a gender perspective while cultivating the next generation of women constitutional leaders.

These exchanges have underscored the diversity of women's needs and experiences and reinforced the importance of transborder and collective strategies for advancing women's leadership. Participants emphasized that leadership in constitutional reform is not only about occupying positions of authority but also about creating opportunities for others and strengthening the networks that sustain women's participation over time. The Dialogue therefore provided the space for these women leaders—many of whom operate in societies where women's leadership faces sustained pushback—to strategize on building alliances, challenge and overcome structural barriers, and ensure that their own and others' voices and contributions are meaningfully integrated during reform, transition and beyond.

Chapter 4

CONCLUSION

The rule of law is not established by constitutional design alone but must be actively constructed and continuously reproduced through practice.

Transitions today are unfolding in a markedly insecure global environment—one in which democratic backsliding, geopolitical struggles and weakening multilateralism place additional pressure on already fragile national processes. The Dialogue discussions coalesce around a central truth: the rule of law is not established by constitutional design alone but must be actively constructed and continuously reproduced through practice. Courts must build legitimacy in contexts where trust is often eroded, navigating political pressure and structural constraints while seeking to enforce rights and secure compliance. Lawyers and bar associations must endorse a democratic legal culture, support judicial independence and mobilize for reform. Yet these transitions will need support in addition to elections to consolidate their democracies beyond the first, most fragile decade (Yerkes and Hogan 2025).

The Dialogue vividly illustrated how these dynamics manifest: in Syria, a 'legitimacy crisis' in which the co-opted judiciary and legal system inherited deeply eroded public trust; in Bangladesh, where even a well-drafted constitution failed to prevent 15 years of authoritarian governance; and in Ghana, where long-standing constitutional stability has not prevented growing concerns about executive dominance, manipulation of the judiciary and declining trust over time.

Women's leadership is integral to navigating these challenges yet remains systematically constrained. The Dialogue demonstrated that women shape constitutional transitions through both formal roles and informal networks of solidarity, mentorship and strategic engagement. Ensuring women's equal participation in the judiciary and legal profession, in accessing justice, and across all stages of constitution making and institutional reform goes beyond a question of representation to a question of democratic legitimacy and the quality of constitutional governance itself.

Strengthening the rule of law in transitional contexts requires sustained attention to institutional design, culture and inclusion. It demands investment

in judicial independence and integrity, support for autonomous and accountable legal professions, and the cultivation of legal education systems that embed ethics and public service. It also requires deliberate and context-sensitive strategies to ensure that women are not only present but able to shape outcomes. Ultimately, the Dialogue confirms that the rule of law is neither self-executing nor inevitable: it is the product of choices, practices and coalitions that must be actively built and defended over time.

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Annex A: Programme

Day 1: Thursday, 13 November 2025

Time	Session
09:15–09:30	<ul style="list-style-type: none"> • Welcome and objectives • Sumit Bisarya, Head of Constitutional Governance and Rule of Law Programme, International IDEA • Christine Bell, Assistant Principal (Global Justice), Director, Peace and Conflict Resolution Evidence Platform, University of Edinburgh [online] • Sharon Pia Hickey, Programme Officer, Constitutional Governance and Rule of Law Programme, International IDEA
09:30–11:00 (Per group: 5 minutes for personal introductions, 15 minutes for country presentation)	<p>Session 1 – Country introductions</p> <p>Participants in their country groups will introduce themselves and outline the current status of constitution making in their country, the institutional status and independence of the judiciary and legal profession, and key challenges for judicial independence.</p> <ul style="list-style-type: none"> • Bangladesh • Syria • Ghana <p>Facilitator: Sharon Pia Hickey</p>
11:15–12:30	<p>Session 2 – The role of courts during reform processes</p> <p>This session will consider the role of courts—as both actors and subjects—during a reform process. As actors, courts are often involved in implementing a new constitutional order, including certifying constitutional amendments and electoral results, adjudicating complicated transitional issues, reviewing the limits of executive powers and adjudicating other disputes related to the changing order. As countervailing institutions, courts have a crucial role to play in constraining political power, upholding the rule of law and human rights, and enabling the development of a new culture of constitutionalism. As subjects, courts and the judiciary are also often affected by constitutional reform and are commonly a target of significant restructuring intended to enable them to discharge their intended role credibly. This might include integrity vetting along with new provisions relating to independence and accountability.</p> <p>Facilitator: Susan H. Williams</p>

Time	Session
13:45–15:00	<p>Session 3 – The legal profession in transition: Independence, mobilization and access to justice</p> <p>This session will cover how the legal profession as a whole—in particular bar councils or associations and law societies, legal aid bodies and public defenders—safeguard the rule of law and help operationalize a new constitutional order. We will consider professional self-regulation, advocacy for law reform, provision of legal aid, and monitoring of judicial independence and frameworks to protect independence (e.g. autonomy, elections, conflict-of-interest rules, discipline, mandatory or universal membership models), modes of mobilization and risks (e.g. political interference, fragmentation and in some cases safety risks). The session will also address the positive and negative implications of the profession's gatekeeping roles and connections between the legal profession and the judiciary, including the participation of lawyers in judicial service commissions or judicial councils and other appointment or oversight bodies, and how lawyers can expand access to justice during constitutional transition.</p> <p>Facilitator: Elizabeth Muli</p>
15:15–16:45	<p>Session 4 – Showcasing and embedding women's leadership and empowerment</p> <p>Women's leadership and participation across constitution-making bodies, courts, bar associations, and appointment and oversight bodies is a core component of inclusive and sustainable democracy. This session will discuss pathways and pipelines for the recruitment and retention of women, gendered challenges to women's leadership, constitutional and legislative mechanisms for inclusivity and parity, the creation of safe and enabling environments, women's roles in agenda setting and transformative constitutionalism and ways to measure success.</p> <p>Facilitator: Sanaa Alsarghali</p>
16:45–17:00	Wrap-up

Day 2: Friday, 14 November 2025

Time	Session
09:35–11:00	<p>Session 5 – Restoring judicial integrity: Democratic considerations</p> <p>Courts must be capable of administering justice impartially and must be perceived to do so. Compromised courts that have been corrupt or subject to the instructions of politicians, for instance, do not administer justice. In addition, allegations of corruption and political bias undermine the trust of the public in judges. This session will discuss methods of restoring and protecting judicial integrity while considering the challenges of legal continuity, due process and security of tenure and, particularly, the challenge of building the rule of law while assessing the performance of judges. Examples from transitional contexts have shown various methods—the creation of new top courts, retention of existing judges with ordinary disciplinary procedures, review of judicial integrity by truth commissions, special processes to vet large numbers of judges, targeted individualized vetting, competitive reappointment or, in some cases, dismissal or prosecution. The session will also consider international standards for these processes, criteria and justifications for different approaches, and the limits of changes that merely replace judges.</p> <p>Introductory presentation followed by facilitated discussion: Christina Murray</p>

Time	Session
11:00–12:30	<p>Session 6 – Courts as guardians of constitutional reform and transition</p> <p>This session explores how courts safeguard and give effect to constitutional reform, especially under transformational constitutions that recalibrate fundamental values and governance, constrain majoritarianism, promote inclusivity and entrench constitutionalized rights. We will discuss how judges interpret new provisions—sometimes expressly tasking the judiciary with a transformative role—often in the face of competing challenges of elite resistance and allegations of judicial activism, on the one hand, and complaints that they are not acting assertively enough, on the other hand. The session will explore the strategic choices and alliances judges pursue to enhance acceptance of, and compliance with, their rulings. This session will also discuss guardrails, mechanisms, and strategies and incentives to prevent these institutions from hindering reform, gutting the spirit of a constitutional text, or becoming tools for the executive or political manipulation.</p> <p>Facilitator: Susan H. Williams</p>
14:00–15:00	<p>Session 7 – Addressing the challenges, charting the future</p> <p>This session invites participants to return to the questions posed at the outset of the Dialogue by each country group and propose answers. What have we learned, what challenges persist, and what lessons are transferable across contexts? Drawing on the exchanges from all sessions, participants will identify recurring themes, lessons and persistent challenges for judges, legal professionals and civil society, as well as start to formulate types of training and support that can support democracy and the rule of law in their countries.</p> <p>Breakout groups followed by plenary and group discussion</p>
15:15–16:30	<p>Session 8 – Workshop: Support for constitutional reform processes</p> <p>In this session, we will brainstorm which types of support and training would be most useful for constitution builders, courts and legal professionals to fulfil the democratic potential of courts and lawyers in constitutional transformation and strengthening the rule of law.</p> <p>Breakout groups followed by plenary and group discussion</p>
16:30–17:00	Wrap-up

Annex B: List of participants

- **Sophia Akuffo**, former Chief Justice of Ghana; former President, African Court on Human and Peoples' Rights; member, Council of State; Ghana
- **Sanaa Alsarghali**, Associate Professor of Constitutional Law, An-Najah National University; member, Drafting Committee of the Palestinian Interim Constitution; Global Visiting Professor, Sciences Po Paris; Palestine
- **Christine Bell**, Professor of Constitutional Law, University of Edinburgh Law School, United Kingdom [online]
- **Rima Dali**, lawyer and social expert, constitutional and judicial reform specialist, Syria
- **Rumeen Farhana**, Barrister-at-Law; Advocate before the Supreme Court of Bangladesh; former Member of Parliament; Editor and Publisher, *Daily Ittehad*; Bangladesh
- **Sara Hossain**, Senior Advocate, Supreme Court of Bangladesh; Honorary Executive Director, Bangladesh Legal Aid and Services Trust (BLAST); Professor of Practice, SOAS University of London; Chair, Independent International Fact-Finding Mission on Iran; Bangladesh [online]
- **Zainab Malik**, Senior Policy and Advocacy Adviser, The Hague Institute for Innovation of Law; former Head of Policy and Advocacy, Justice Project; Pakistan
- **Sheila Minkah-Premo**, Managing Consultant, ALC Law Consult; Chair, Ghana Bar Association Women and Minors' Rights Committee; Ghana
- **Eteddal Muhsen**, lawyer and trainer, human rights and gender-based violence specialist; Syria/Netherlands
- **Dima Moussa**, member, Syrian Constitutional Committee; member and former Vice President, Syrian National Coalition; Syria
- **Elizabeth Muli**, Senior Lecturer, University of Nairobi Faculty of Law; Advocate of the High Court of Kenya; former Vice-Chairperson, Commission for the Implementation of the Constitution; Kenya
- **Christina Murray**, Professor Emeritus of Human Rights and Constitutional Law, University of Cape Town; former member, United Nations Mediation Support Standby Team; South Africa
- **Gloria Ofori-Boadu**, Founder and President, Women's Assistance & Business Association; former Executive Director, International Federation of Women Lawyers; Ghana
- **Linda Osman**, international human rights lawyer; Legal Officer, Syrians for Truth and Justice; Netherlands/Syria

- **Tasnuva Shelley**, Deputy Attorney General, Attorney General's Office; Advocate, Supreme Court of Bangladesh; legal innovator; Bangladesh
- **Reem Turkmani**, Assistant Professorial Research Fellow, London School of Economics and Political Science Middle East Centre; member, Women's Advisory Board to the UN Special Envoy to Syria; Syria [online]
- **Susan H. Williams**, Walter W. Foskett Professor Emerita; former Director, Center for Constitutional Democracy, Indiana University Maurer School of Law; United States

International IDEA staff

- **Adem Kassie Abebe**, Senior Adviser, Constitutional Governance and Rule of Law Programme
- **Sumit Bisarya**, Head of Constitutional Governance and Rule of Law Programme; Head of Mission in the Netherlands
- **Sharon Pia Hickey**, Programme Officer, Constitutional Governance and Rule of Law Programme; Climate Change and Democracy Programme
- **Alexandra Oancea**, Associate Programme Officer, Constitutional Governance and Rule of Law Programme
- **Kimana Zulueta-Fülscher**, Senior Adviser, Constitutional Governance and Rule of Law Programme

Visiting students/interns

- **Mayya Chaykina**, master's student in law, Sciences Po Law School
- **Mie Holm**, master's student, Sciences Po School of Law
- **Eva Montero Ibarra**, intern, Constitutional Governance and Rule of Law Programme; DPhil candidate, University of Oxford
- **Molly Koetter**, intern, Constitutional Governance and Rule of Law Programme; JD candidate, Indiana University Maurer School of Law

About the authors

Sharon Pia Hickey is a lawyer and Programme Officer in International IDEA's Constitutional Governance and Rule of Law Programme, where she generates knowledge on comparative constitutional process and design and supports constitution-building processes. She organizes the annual Women Constitution-Makers' Dialogue, which brings together women constitution-makers to discuss their experiences with peers. Sharon began her career in Ireland, supporting women running for political office and advocating political gender quotas. She has since held several roles supporting the rule of law, including at the International Gender Justice Clinic and the Cornell Center on the Death Penalty Worldwide at Cornell Law School, where she co-founded the Alice Project for Women on Death Row. Sharon graduated from the National University of Ireland, Maynooth, and earned her LLM, with certification in gender and sexuality law, from Columbia Law School, where she served as an editor for the *Human Rights Law Review*.

Molly Koetter is pursuing her JD at the Indiana University Maurer School of Law and was an intern with the Constitutional Governance and Rule of Law Programme at International IDEA in The Hague, the Netherlands, in the autumn term of 2025. Before law school, she graduated from the Indiana University O'Neill School of Public and Environmental Affairs with a Bachelor of Science in Public Affairs, majoring in Law and Public Policy. In addition to being JD Fellow with the Maurer School of Law's Center for Constitutional Democracy, she has served as the Director of Communications for the Incarcerated Individuals Legal Assistance Project and as a member of the Maurer Women's Law Caucus.

About the partners

INTERNATIONAL IDEA

The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization with 35 Member States founded in 1995, with a mandate to support sustainable democracy worldwide.

What we do

We develop policy-friendly research related to elections, parliaments, constitutions, digitalization, climate change, inclusion and political representation, all under the umbrella of the UN Sustainable Development Goals. We assess the performance of democracies around the world through our unique Global State of Democracy Indices and Democracy Tracker. We provide capacity development and expert advice to democratic actors including governments, parliaments, election officials and civil society. We develop tools and publish databases, books and primers in several languages on topics ranging from voter turnout to gender quotas. We bring states and non-state actors together for dialogues and lesson sharing. We stand up and speak out to promote and protect democracy worldwide.

Where we work

Our headquarters is in Stockholm, and we have regional and country offices in Africa, Asia and the Pacific, Europe, and Latin America and the Caribbean. International IDEA is a Permanent Observer to the United Nations and is accredited to European Union institutions.

Our publications and databases

We have a catalogue with more than 1,000 publications and over 25 databases on our website. Most of our publications can be downloaded free of charge.

<<https://www.idea.int>>

EDINBURGH CENTRE FOR CONSTITUTIONAL LAW

The Edinburgh Centre for Constitutional Law (ECCL) provides a focal point for staff and postgraduate research students working in all areas of Scots and UK public law, Commonwealth and comparative constitutional law, human rights law, environmental law and climate change law, democratization and transitional constitutionalism, and constitutional theory. Our members undertake research and teaching in all these areas, as well as provide expertise to institutions outside academia in the UK and beyond.

Website: <<https://www.law.ed.ac.uk/research/research-centres-and-networks/edinburgh-centre-constitutional-law>>

Email: law@ed.ac.uk

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PEACEREP

PeaceRep: The Peace and Conflict Resolution Evidence Platform is a research consortium based at Edinburgh Law School. Our research is rethinking peace and transition processes in the light of changing conflict dynamics, changing demands of inclusion and changes in patterns of global intervention in conflict and peace/mediation/transition management processes.

Consortium members include: Conciliation Resources, Centre for Trust, Peace and Social Relations (CTPSR) at Coventry University, Dialectiq, Edinburgh Law School, International IDEA, LSE Conflict and Civicness Research Group, LSE Middle East Centre, Queen's University Belfast, University of St Andrews, University of Stirling and the World Peace Foundation at Tufts University.

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Courts occupy a complex position during constitutional reform and transition. They may be called upon to interpret new constitutional frameworks, resolve disputes, enforce rights and help build public confidence in the rule of law, while also undergoing reform themselves—particularly where they have been associated with past oppression and abuses. Their authority depends not only on constitutional guarantees of independence, transparency and accountability, but also on their ability to build legitimacy, withstand political and public pressure, and secure compliance with their decisions.

Lawyers and bar associations play a different but crucially important role as intermediaries between individuals and the state, and as defenders—or, at times, enablers—of constitutional change. The seventh Women Constitution-Makers' Dialogue explored how courts, lawyers and bar associations are shaping constitutional transitions in Bangladesh, Ghana and Syria, and how women in the judiciary, legal profession and constitution-making processes exercise leadership despite structural barriers, professional hostility and gendered risks.