



The International Review *of* Constitutional Reform

EDITED BY

LUÍS ROBERTO BARROSO and RICHARD ALBERT

2022



EDITORS

CO-EDITORS

LUÍS ROBERTO BARROSO

President, Federal Supreme Court of Brazil

Professor of Constitutional Law, Rio de Janeiro State University

RICHARD ALBERT

Director of Constitutional Studies

William Stamps Farish Professor in Law

Professor of Government

The University of Texas at Austin

ASSOCIATE EDITORS

MATHEUS DE SOUZA DEPIERI

LL.M. Candidate, University of Cambridge (2024)

LL.B., University of Brasília (2021)

*Director of the Center for Comparative Constitutional Studies
(CECC/UnB)*

BRUNO SANTOS CUNHA

PhD Candidate, Federal University of Pernambuco, Brazil

Master of Laws, University of Michigan Law School (2017)

Master of Laws, University of São Paulo (2014)

ELISA AMORIM BOAVENTURA

LL.B., University of Brasília (2022)

*Director of the Center for Comparative Constitutional Studies
(CECC/UnB)*

JÚLIA QUINTÃO FRADE

LL.B., University of Brasília (2023)

*Director of the Center for Comparative Constitutional Studies
(CECC/UnB)*

DAVID SOBREIRA

Master of Laws Candidate, Christus University, Brazil

MARIA LETÍCIA BORGES

LL.B., University of Brasília (2022)

*Director of the Center for Comparative Constitutional Studies
(CECC/UnB)*

Hosted, Published, and Sponsored by the Program
on Constitutional Studies at the University of Texas
at Austin and the International Forum on the Future
of Constitutionalism

ISBN 978-1-7374527-4-4

CONTRIBUTORS

Emmanuel Saffa Abdulai | *Sierra Leone*
University of Sierra Leone

Karem Sayed Aboelazm | *Egypt*
Umm Al Quwain University

Fernando Acunha | *Brazil*
Centro Universitário de Brasília

Giorgi Alaverdashvili | *Georgia*
Ivane Javakhishvili Tbilisi State University

Eyad Ayed Alsamhan | *Jordan*
Brigham Young University, Judicial Council of Jordan

Aurela Anastasi | *Albania*
University of Tirana

Gabriel Arishe | *Nigeria*
University of Benin

Tri Sulistianing Astuti | *Indonesia*
Universitas Islam Internasional Indonesia (UIII)

Fátima Milena Atacushi-García | *Ecuador*
Universidad Central del Ecuador

Osayd Awawda | *Palestine*
Hebron University

Jean-Claude Barakamfitiye | *Burundi*
Burundi Bar Association (BBA) & Burundi Bridges to Justice

Kamil Baraník | *Slovakia*
Matej Bel University

Roel Becker | *The Netherlands*
Leiden University

Eva Maria Belser | *Switzerland*
University of Fribourg

Jaroslav Benák | *Czech Republic*
Masaryk University

Juliano Zaiden Benvindo | *Brazil*
University of Brasília

Elisa Bertolini | *San Marino*
Bocconi University

Vahit Biçak | *Turkey*
Bicak Law, Mediation, Arbitration Centre

Geerten Boogaard | *The Netherlands*
Leiden University

Camille Bordere | *France*
Université de Bordeaux

Alexander Brade | *Germany*
Leipzig University

Patrik Bremdal | *Sweden*
Uppsala University

Kornkanok Buawichien | *Thailand*
Thammasat University

Vincent Bujňák | *Slovakia*
Comenius University

Rodrigo Lobo Canalli | *Eswatini*
NYU School of Law

Eloy Viera Cãnive | *Cuba*
Gobierno y Análisis Político

Sumit Chatterjee | *Afghanistan*
Karnataka High Court

Martin Chipofya | *Malawi*
Malawi Judiciary

Sachi Chopra | *Pakistan*
Advocate High Court of Delhi

Vera Karam de Chueiri | *Brazil*
Federal University of Paraná

Ylenia Maria Citino | *Italy*
Luiss Guido Carli University

Tommy Corbeil | *Canada*
Université du Québec à Montréal

Marie DeCock | *Belgium*
Hasselt University, Maastricht University

Heloísa Orsi Koch Delgado | *Angola*
University of Rio Grande do Sul

Giacomo Delledonne | *Italy*
Scuola Superiore Sant'Anna

Luthfi Widagdo Eddyono | *Indonesia*
Constitutional Court of the Republic of Indonesia

Gabrielle Elliott-Williams | *Jamaica*
University of the West Indies at Mona

Jeffrey Foreman | *Jamaica*
Attorney at law

Eduardo Gregorio Esteva-Gallicchio | *Uruguay*
Catholic University of Uruguay, University of Montevideo

Sooraj Gemini | *India*
Central University of Kerala

Miguel Godoy | *Brazil*
Federal University of Paraná

Mario Gomez | *Sri-Lanka*
International Centre for Ethnic Studies

Jurgen Goossens | *Belgium*
Utrecht University

Susanne Gstoettner | *Austria*
Sigmund Freud University

Dave Guénette | *Canada*
Université de Sherbrooke

Muhammad Ekramul Haque | *Bangladesh*
University of Dhaka

Jau-Yuan Hwang | *Taiwan*
Constitutional Court of Taiwan

Eveliina Ignatius | *Finland*
University of Helsinki

Harun Iseric | *Bosnia and Herzegovina*
University of Sarajevo

Dionne Jackson-Miller | *Jamaica*
University of the West Indies at Mona

Anmol Jain | *India*
Melbourne Law School

Ramon Jorge | *Dominican Republic*
Federico Henriquez y Carvajal University

Balingene Kahombo | *Democratic Republic of Congo*
University of Gona

Thato Katiba | *Lesotho*
National University of Lesotho

Paul Kildea | *Australia*
University of New South Wales

Masatoshi Kokubo | *Japan*
Keio University

Keigo Komamura | *Japan*
Keio University

Melissa A. Kotulski | *Ireland*
International Attestations, LLC

Jaka Kukavica | *Slovenia*
European University Institute

Anubhav Kumar | *Pakistan*
Advocate Supreme Court of India

Virginie Kuoch | *Hong Kong*
Université Paris 1 Panthéon-Sorbonne

Konrad Lachmayer | *Austria*
Sigmund Freud University

Mugambi Laibuta | *Kenya*
Kenya School of Law

Anabela Costa Leão | *Portugal*
Universidade do Porto

Rawin Leelapatana | *Thailand*
Chulalongkorn University

Ntsane K Lesenyeho | *Lesotho*
National University of Lesotho

Jonathan Liljeblad | *Myanmar*
Australian National University

Chien-Chih Lin | *Taiwan*
Academia Sinica

Cheng Long | *China*

Shandong University

Konstantinos Margaritis | *Greece*

Hellenic Open University

Ali Mashraf | *Bangladesh*

East West University

Catherine Mathieu | *Canada*

Université du Québec à Montréal

Simon Mazidi | *Switzerland*

University of Fribourg

János Mécs | *Hungary*

ELTE Eötvös Loránd University

Eleni Meleagrou | *Cyprus*

Solicitor (UK), Advocate practicing Human Rights (Cyprus)

Jolita Miliuviene | *Lithuania*

Mykolas Romeris University

Matija Milos | *Croatia*

University of Rijeka

Mikhail Minakov | *Ukraine*

Kennan Institute, Woodrow Wilson International Center for Scholars

Chris Monaghan | *United Kingdom*

University of Worcester

Jose Luis Castro Montero | *Ecuador*

Universidad Central del Ecuador, Constitutional Court of Ecuador

Rafael Jerez Moreno | *Honduras*

Honduran Business Organization

Yacine Ben Chaabane Mousli | *Tunisia*

University Paris Panthéon Assas

Satang Nabaneh | *Gambia*

Law Hub Gambia

Luisa Neto | *Portugal*

Universidade do Porto

Wilson Seraine Neto | *Mozambique*

University of Coimbra

Inês Neves | *Portugal*

Universidade do Porto

Tuomas Ojanen | *Finland*

University of Helsinki

Magdalena Ortega | *Chile*

Centro de Estudios Públicos

Eleni Palioura | *Greece*

National and Kapodistrian University of Athens

Costas Paraskeva | *Cyprus*

University of Cyprus

Johanna Cilano Pelaez | *Cuba*

Tecnológico de Monterrey

Binendri Perera | *Sri-Lanka*

University of Colombo

Pablo German Petraglia | *Argentina*

National University of Northwestern Buenos Aires

Molefhi Phorego | *Botswana*

Nelson Mandela University

José Pina-Delgado | *Cape Verde*

Constitutional Court of Cabo Verde

Andrea Pozas-Loyo | *Mexico*

Universidad Nacional Autónoma de México

Zoltán Pozsár-Szentmiklósy | *Hungary*

ELTE Eötvös Loránd University

Ana Rita Babo Pinto | *Portugal*

Universidade do Porto

Daniel Rivas-Ramírez | *Colombia*

Researcher

Paula Robledo Silva | *Colombia*

Universidad Externado de Colombia

Edgar Ortiz Romero | *Guatemala*

Universidad Francisco Marroquín and Fundación

Libertad y Desarrollo

Yaniv Roznai | *Israel*

Reichman University

Daniel Ruhweza | *Uganda*

Makerere University

Camilo Saavedra-Herrera | *Mexico*

Universidad Nacional Autónoma de México

Marieta Safta | *Romania*

Titu Maiorescu University

Ana Samobor | *Slovenia*

University of Ljubljana

Janaína Rigo Santin | *Angola*

University of Passo Fundo and the University of Caxias do Sul

Carola Sauer | *Luxembourg*

Council of State

Amal Sethi | *Afghanistan*

University of Hamburg

Aditi Vishwas Sheth | *Afghanistan*

National Law School of India University

Idan Siboni | *Israel*

Reichman University

Bradley Slade | *South Africa*

Stellenbosch University

Bernadette Somody | *Hungary*

ELTE Eötvös Loránd University

Sebastián Soto | *Chile*

Pontificia Universidad Católica de Chile

Yen-Tu Su | *Taiwan*

Academia Sinica

Mai Sugaya | *Japan*

Takushoku University

Sacha Sydoryk | *France*

Université de Tours

Carlos Teixeira | *Angola*

University of Agostinho Neto, Constitutional Court in Angola

Dario Elia Tosi | *Malta*

University of Turin

Neha Tripathi | *Pakistan*

Maharashtra National Law University

Swapnil Tripathi | *India*

University of Oxford

Vasileios G. Tzemos | *Greece*

University of Thessaly

Solomon Ukhuegbe | *Nigeria*

American Heritage University of Southern California

Pablo Valdivieso-Kastner | *Ecuador*

University of Oxford

Vinh Vokhanh | *Vietnam*

National Academy for Social Sciences of Vietnam

Arta Vorpsi | *Albania*

University of Tirana

Giao Vucong | *Vietnam*

Vietnam National University

Larissa Whittingham | *United States of America*

Boston College

Edward Willis | *New Zealand*

University of Otago

Jens Woelk | *Bosnia and Herzegovina*

University of Trento

Rico Yearwood | *Barbados*

University of the West Indies, Cave Hill Campus

Ronnie Yearwood | *Barbados*

University of the West Indies, Cave Hill Campus

Satoshi Yokodaido | *Japan*

Keio University

Sophia Seddiq Zai | *Afghanistan*

University of Hamburg

Jiang Zhaoxin | *China*

Shandong University, The Chinese University of Hong Kong

Vedran Zlatic | *Croatia*

University of Split

Dunia Prince Zongwe | *Namibia and the Republic of the Congo*

Alliance University, Walter Sisulu University

2022

Table of Contents

CONTRIBUTORS	4	<i>Hungary</i>	164
		<i>India-1</i>	168
		<i>India-2</i>	172
INTRODUCTION		<i>Indonesia</i>	174
<i>A New Fixture in Constitutional Studies</i>	10	<i>Ireland</i>	178
		<i>Israel</i>	184
CONSTITUTIONAL REFORMS IN 2022:		<i>Italy</i>	187
<i>What Trends to Expect in the Global</i>	13	<i>Jamaica</i>	192
<i>Constitutional Dynamics?</i>		<i>Japan</i>	197
		<i>Jordan</i>	202
JURISDICTION REPORTS		<i>Kenya</i>	205
		<i>Lesotho</i>	208
<i>Afghanistan</i>	15	<i>Lithuania</i>	210
<i>Albania</i>	20	<i>Luxembourg</i>	214
<i>Angola</i>	25	<i>Malawi</i>	217
<i>Argentina</i>	29	<i>Malta</i>	221
<i>Australia</i>	32	<i>Mexico</i>	226
<i>Austria</i>	36	<i>Mozambique</i>	230
<i>Bangladesh</i>	41	<i>Myanmar</i>	233
<i>Barbados</i>	45	<i>Namibia</i>	237
<i>Belgium</i>	48	<i>Netherlands</i>	242
<i>Bosnia and Herzegovina</i>	53	<i>New Zealand</i>	247
<i>Botswana</i>	57	<i>Nigeria</i>	251
<i>Brazil</i>	62	<i>Pakistan</i>	256
<i>Burundi</i>	68	<i>Palestine</i>	260
<i>Canada</i>	72	<i>Portugal</i>	262
<i>Cape Verde</i>	77	<i>Republic of the Congo</i>	266
<i>Chile</i>	83	<i>Romania</i>	270
<i>China</i>	88	<i>San Marino</i>	274
<i>Colombia</i>	93	<i>Sierra Leone</i>	276
<i>Croatia</i>	96	<i>Slovak Republic</i>	280
<i>Cuba</i>	100	<i>Slovenia</i>	284
<i>Cyprus</i>	105	<i>South Africa</i>	288
<i>Czech Republic</i>	107	<i>Sri Lanka</i>	290
<i>Democratic Republic of the Congo</i>	109	<i>Sweden</i>	294
<i>Dominican Republic</i>	113	<i>Switzerland</i>	296
<i>Ecuador</i>	117	<i>Taiwan</i>	301
<i>Egypt</i>	122	<i>Thailand</i>	304
<i>Eswatini</i>	124	<i>Tunisia</i>	307
<i>Finland</i>	127	<i>Turkey</i>	311
<i>France</i>	132	<i>Uganda</i>	315
<i>Gambia</i>	135	<i>Ukraine</i>	317
<i>Georgia</i>	139	<i>United Kingdom</i>	320
<i>Germany</i>	143	<i>United States of America</i>	325
<i>Greece</i>	147	<i>Uruguay</i>	329
<i>Guatemala</i>	152	<i>Vietnam</i>	331
<i>Honduras</i>	155		
<i>Hong Kong</i>	160	SUMMARIES	335

Introduction

A New Fixture in Constitutional Studies

LUÍS ROBERTO BARROSO

President, Federal Supreme Court of Brazil
Professor of Constitutional Law, Rio de Janeiro State University

RICHARD ALBERT

Director of Constitutional Studies
William Stamps Farish Professor in Law
Professor of Government
The University of Texas at Austin

For each of the past two years, *The International Review of Constitutional Reform* (IRCR) has reported on all forms of constitutional revision around the world. Now in its third year, the IRCR has become a fixture in constitutional studies—and it has become a valued resource in universities, courts, and parliaments.

The IRCR continues to offer an invaluable service to scholars, jurists, practitioners, and beyond: to explain and contextualize events in constitutional reform over the previous year. This year's edition features separate and self-standing reports on over 80 jurisdictions from every region of the globe.

The IRCR defines constitutional reform broadly. We include constitutional amendments, constitutional dismemberments, constitutional mutations, constitutional replacements and other events in constitutional reform, including the judicial review of constitutional amendments.

In order to facilitate cross-jurisdictional comparison, each country report follows the same format:

1. "Introduction," which offers a brief overview of the year in constitutional reform;
2. "Proposed, Failed, and Successful Constitutional Reforms," which examines proposed constitutional reforms and explains the reasons for the failure or success;
3. "The Scope of Reforms and Constitutional Control," which evaluates the proposed reforms and explains whether they were the subject of constitutional review;

4. "Looking Ahead," which identifies the big questions that await the jurisdiction in the context of constitutional reform in the year or years ahead; and
5. "Further Reading," which recommends relevant readings for those interested in learning more about the reforms discussed in the report.

All reports are authored by scholars or jurists, or by teams of scholars and jurists working collaboratively. At the very end of the IRCR, we provide a summary of the most important developments in constitutional reform over the past year in each jurisdiction; this section is intended to be a quick overview of the previous year.

The IRCR is a joint initiative of the *Constitutional Studies Program* at the University of Texas at Austin in partnership with the *International Forum on the Future of Constitutionalism*.

In our capacity as Co-Editors for this volume, we have benefited from the invaluable contributions of our outstanding team of Associate Editors: Elisa Amorim Boaventura, Maria Letícia Borges, Bruno Santos Cunha, Matheus de Souza Depieri, Júlia Quintão Frade, and David Sobreira. They are colleagues of the first-rate, and it has been an honor to work so closely with them.

As always, the IRCR aspires to cover the globe. We would like to continue improving this resource and increasing the number of jurisdictions we cover every year. This will only benefit the field of constitutional studies.

We invite readers and new contributors to contact us to suggest new jurisdictions to cover in the IRCR or to offer other ideas for our book—or both! We look forward to hearing from you.

Until then, we thank you for reading the IRCR!

San Marino



ELISA BERTOLINI

Associate Professor of Comparative Public Law
Bocconi University, Milan-Italy

I. INTRODUCTION

When approaching the issue of constitutional reforms in San Marino, it is important to recall some characteristics of the Sammarinese system of sources of law.

The Sammarinese sources are characterized by centuries of stratification.

At the constitutional level, there are the *Leges Statutae* (dating back to 1600), their subsequent reforms (so-called *Reformationes*), and the Ancient Customs, integrated by the *ius commune*. Only in 1974, very recently when compared to most continental Europe legal systems, San Marino decided to adopt the *Dichiarazione dei diritti dei cittadini e dei principi fondamentali dell'ordinamento sammarinese* (Declaration of Citizens' Rights and of Founding Principles of the Sammarinese Legal System, hereinafter DD). Afterward, in 2002, an important reform of the DD was implemented as a part of the Sammarinese legal system. By incorporating this crucial reform in its legal system, San Marino acknowledged the European Convention of Human Rights and international covenants which serve to protect natural rights and individual freedoms.

As the naming of the document suggests, the DD is not exactly a proper constitution. Nevertheless, following the 2002 amendment, in Article 3bis, the DD specifically provides for constitutional laws to enact the principles stated in the DD. To be more precise, according to the transitory norms of the DD—introduced as well by the 2002 amendment—these constitutional laws must be passed within 3 years from the enforcement of the DD. Moreover, the procedure to pass constitutional laws requires a supermajority vote (two-thirds) by the Consiglio Grande e Generale (Grand and General Council), whilst, in the case of an absolute majority, a referendum must be held afterward.

The very same procedure is provided in Article 17 to amend the DD. This article, again introduced by the 2002 amendment, gives the DD the rigidity it was previously lacking.

Moreover, the 2002 amendment also introduced the Collegio Garante della Costituzionalità delle Norme (Guarantors' Panel on the Constitutionality of Rules), which is the Sammarinese equivalent of a constitutional court.

It can be concluded that, even though the DD still has the name of a declaration, it has progressively acquired a constitutional character.

In the year 2022, there were no amendments to the DD which were either proposed or approved. There also were not any constitutional

and qualified laws proposed or approved to San Marino's declaration.

This constitutional immobilism is quite striking, considering that in 2020, a consensus within the Sammarinese institutions was reached regarding the necessity for the Sammarinese legal system to undergo significant constitutional reform in the upcoming years. The fact that no formal road map with a clear schedule has been released so far allows one to believe that the reform process will span several years.

II. PROPOSED, FAILED, AND SUCCESSFUL CONSTITUTIONAL REFORMS

Even though no reform, either successful or unsuccessful, characterized the year of 2022, it is appropriate to briefly address const. law 1/2021, discussed in last year's issue. The reform of the civil liability of the members of the judiciary was carried out to have the Sammarinese judiciary comply with the practices of the Council of Europe. Indeed, in the fourth evaluation round which dealt with "Corruption Prevention in Respect of Members of Parliament, Judges, and Prosecutors, released in June 2022, GRECO praised the Sammarinese constitutional reform.

III. THE SCOPE OF REFORMS AND CONSTITUTIONAL CONTROL

Even though no proposed amendments to the DD were passed in 2022, it is noteworthy to point out two key elements which will affect future reform: the scope of any amendment and the role that may be played by the Collegio Garante della Costituzionalità delle Norme (Sammarinese Constitutional Court).

Regarding constitutional reforms, Article 17 DD reads that any provision of the Declaration can be amended. Hence, no provision is explicitly qualified as unamendable. The procedure to pass amendment laws is the same as the one to pass constitutional laws—either a vote by 2/3 by the Consiglio Grande e Generale or by an absolute majority vote followed by a popular referendum. The fact that the DD does not provide for any unamendable rule reflects its character of not being a proper constitution. Moreover, as previously discussed, even the rigidity of the DD is quite recent, dating back only to 2002.

The Collegio Garante della Costituzionalità delle Norme has been one of the major innovations introduced by the 2002 DD reform. To better understand the innovative character of this body, it is significant to note that it is the only Sammarinese institution that is not provided

for in the *Leges Statutae* of 1600. Until 2022, the lack of some sort of rigid constitutional document made a body like the constitutional court almost useless.

With respect to the sources, the Panel can scrutinize only primary legislation and customs having the force of law. Nonetheless, it is worth recalling that since the 2002 DD reform, the European Convention of Human Rights and the international covenants which serve to protect individual liberties and fundamental freedoms have become constitutional parameters.

A further element to take into account is San Marino's membership in the Council of Europe, which closely scrutinizes the implementation of the rule of law in small jurisdictions.

The Collegio Garante is a significant court in Sammarinese institutional architecture. Despite being a relatively young court that was only established in 2002, the Collegio Garante plays an important role as a counter-majoritarian institute. Nevertheless, when considering the diminutive size of the Sammarinese jurisdiction, concerns persist regarding the independence of the judiciary. However, as it usually happens in small jurisdictions, most of the members of the Collegio Garante are Italian citizens, the outsourcing of recruitment favoring the independence of the judiciary.

It is worth noting that the Collegio Garante delivered a decision on Const. Law (1/2021) on the civil liability of the judiciary in June 2022. The scrutiny of the challenged provision (art. 16, par. 7) did not identify any constitutional illegitimacy.

IV. LOOKING AHEAD

In 2021, San Marino was bound to start a significant institutional reform to further modernize the constitutional arrangements and to align the Sammarinese system to the best practices requested by the Council of Europe. San Marino considers that it is of paramount importance to integrate the new instances and the challenges of the twenty-first century within the Sammarinese institutional tradition. The decision regarding Const. Law (1/2021) has been the first step in this direction, even though the most significant reforms are expected for 2023, rather than for 2022 as originally planned. It is worth noting that the Capitani Reggenti—Captains Regent, the two-heads head of state—has stressed the importance of linking the institutional reforms to the Association Agreement with the EU, which must be discussed by the Consiglio Grande e Generale during 2023.

However, the extension of the reform process in San Marino cannot be appreciated just yet. Like all other continental microstates, San Marino tends to modernize slowly and respect the principle of institutional continuity that has guided the country's reforms so far.

V. FURTHER READING

GRECO, Fourth Evaluation Round Compliance Report. *Corruption prevention in respect of members of parliament, judges, and prosecutors* (GrecoRC4(2022)10, 17 June 2022).

Summaries

The Most Important Developments in Constitutional Reform by Jurisdiction

Afghanistan

In 2022, most of the previous government's bureaucracy and ministries were incorporated into the Taliban Regime. Moreover, the Islamic law and justice system under the Taliban saw a massive expansion, with the Supreme Court assuming a central (and illiberally transformative) role. However, the situation of human rights (particularly women's rights) remains bleak.

Albania

In 2022, there was a formal change of the constitution of Albania which did not bring any significant developments. Nevertheless, the tendency of constitutional jurisprudence to informally modify the Constitution through interpretation regarding the separation and balancing of powers could be observed.

Angola

Law 18/21 (Angolan Constitutional Reform), issued 11 years after the promulgation of the 2010 Constitution of the Republic of Angola, aims to strengthen Local Government and the process of building the Angola Democratic State of Rights, institutionalizing Local Authorities, and decentralizing the political power.

Argentina

In 2022, the ruling of the Supreme Court of Justice of the Nation declared the unconstitutionality of the law that regulated the Judicial Council, bringing a new interpretation of section 114 of the Constitution and creating intense political controversy.

Australia

The most important development in constitutional reform in Australia in 2022 was the announcement by a newly elected Australian government that it would take steps to amend the nation's Constitution to establish an Aboriginal and Torres Strait Islander Voice. The government will put the proposal to a referendum in 2023.

Austria

The most significant constitutional amendment of 2022 concerned the transparency of party financing and brought an extension of the Austrian Court of Audit's competencies as well as the strengthening of its independence. Meanwhile, other major proposed amendments like the Freedom of Information Act are still waiting to be realized.

Bangladesh

The promulgation of the Chief Election Commissioner and the Other Election Commissioners Appointment Act of 2022 remains the most important development in constitutional reform within the country, as it ushered in a new era in the election commission's functions for the first time after 50 years of the enactment of the Constitution.

Barbados

The most important development in constitutional reform within Barbados in 2021 was its transition to a republic. The country removed the Queen of Britain as the non-executive head of state, who was represented locally by a Barbadian as Governor-General, and now has a native Barbadian as head of state. This change swapped the non-executive Governor-General to a non-executive President.

Belgium

In 2022, the federal government communicated a *provisional* list of revisable constitutional provisions to Parliament. The proposed constitutional amendments relate to the recurrent issue of long government formation, the condemnation of Belgium by the ECtHR regarding the settlement of disputes on the credentials of parliamentary representatives, and the constitutional amendment procedure itself.

Bosnia and Herzegovina

In 2022, The BiH Parliamentary Assembly rejected six amendments, while on the eve of the 2022 general elections, The Office of the High Representative imposed 21 amendments to The Constitution of the Federation of BiH (one of the two federal units) to improve the functionality and prevent institutional crises. The second federal unit, Republika Srpska, continued with a secret drafting process of a new Constitution.

Botswana

The completion of public consultations and the presentation of the Commission's report marks a milestone in this maiden comprehensive constitutional review exercise in Botswana. Similarly, the determination of LGBT rights by the Court of Appeal is a milestone in Botswana's constitutional history.

Brazil

In 2022, Brazil went through a frenetic pace of constitutional change. Fourteen constitutional amendments passed in Congress. Brazil faced the most challenging presidential elections ever for its democracy, as President Bolsonaro threw the electoral process off balance through constitutional change. But he ended up losing. What this means for Brazil's constitutionalism is yet to be seen.

Burundi

Burundians are looking forward to witnessing significant changes, including a rethought model of decentralization, transfer of competencies to the new provinces and municipalities, and how this will impact the electoral code as well as the access to public services and resources as a consequence of the administrative restructuring underway.

Canada

While in Canada constitutional change generally occurs in informal, indirect, and incremental ways, 2022 was a constitutionally effervescent year with five formal amendments to the Constitution, including an unprecedented number of province-initiated unilateral amendments. Some of these amendments have constitutional scholars divided on their validity.

Cape Verde

In 2022, the formal procedure of constitutional reform was not used in Cabo Verde, the Constitutional Court did not recognize any constitutional convention or the incorporation of previously non-included rights in the Bill of Rights; and no clear informal changes to the constitutional norms were identified.

Chile

The most crucial development in constitutional reform in the Chilean jurisdiction in 2022 was lowering the super majoritarian threshold that officially started the interregnum stage of the current constitutional text and the passing of the constitutional amendments that enabled the second constitution-making process in three years.

China

The year 2022 marks the 40th anniversary of China's 1982 Constitution. In 2022 China completed the institutional system for the new fourth governmental branch. An efficient court system plus a stronger NPCSC have manifested the institutional preparedness for Chinese constitutionalism in the 2020s and after.

Colombia

Although sixty-six constitutional reforms were proposed in 2022, none were adopted. Only six are still pending in Congress and will be deliberated in 2023. Among these are projects regarding political reform, the creation of an Agrarian and Rural Jurisdiction, and the adult use of cannabis.

Croatia

The constitutional amendments tabled in 2022 aim at reforming pre-conditions for a valid referendum and the role of the Constitutional Court in reviewing the constitutionality of referendums. There has also been deliberation about the introduction of the right to abortion into the constitutional text.

Cuba

Cuba encountered multiple crises in 2022. Rather than safeguarding fundamental rights, the government emphasized laws that supported repression. The legislature sanctioned both the Penal Code, expanding limitations on human rights, as well as the Family Code, which acknowledged same-sex marriage under a selective implementation of laws pertaining to fundamental rights.

Cyprus

The House of Representatives amended the Constitution on two separate occasions. First, it approved the amendment to the Constitution to allow the use of the English language in the newly established Admiralty Court, and second, it implemented the restructuring of the judicial system.

Czech Republic

No successful constitutional reforms were passed in the Czech Republic in 2022, with a few proposals pending or rejected. A government proposal on military operations abroad is likely to pass in 2023, while bills not supported by the government will likely fail.

Democratic Republic of the Congo

No formal constitutional reform occurred in 2022, but there were several informal changes to the Constitution by court's decisions. The most important constitutional reform is the proposal of a draft law to amend conditions to run for presidential elections, modifying the scope of Article 72(1) of the Constitution.

Dominican Republic

The Dominican Republic is immersed in constitutional reform, with the purpose of continuing to strengthen the institutions of the democratic and justice system, specifically the High Courts, the Judiciary, and the Public ministry by using the Economic and Social Council (CES) as the center of dialogue for the reform.

Ecuador

During 2022 the Ecuadorian constitution was free of reforms. Nonetheless, the president introduced an extensive reform package that failed to pass the popular vote through a referendum. Other reforms that received a favorable opinion from the Constitutional Court are scheduled to be debated by the legislature in 2023.

Egypt

The most important development in constitutional reform in Egypt in 2022 is that legislative competence cannot be delegated according to the Constitution to anyone other than Parliament, even if the delegate is Parliament itself. Also, none of the private law persons can issue executive regulations for laws.

Eswatini

In 2022, Eswatini's socio-political crisis continued with escalating government crackdowns. Despite acknowledging the need for a national dialogue on democratic reforms, no progress was made. The judiciary, however, offered transformative interpretations of freedom of expression and press but undermined freedom of association and the rule of law, evidenced by court rulings.

Finland

No formal constitutional amendments were either adopted or pending in 2022. However, both the Covid-19 pandemic and Russia's aggression against Ukraine brought about a discussion on the need to improve domestic legislation for the purpose of better handling new and unprecedented threats. Furthermore, the era of Finnish military non-alignment ended as Finland decided to seek membership in NATO.

France

2022 was a presidential election year, and since Emmanuel Macron did not get the parliamentary majority he hoped for, constitutional reforms were halted. However, a new constitutional bill was introduced following SCOTUS' *Dobbs* decision in order to protect the right to abortion in the Constitution.

Gambia

President Barrow's 2022 re-election promised a new Gambian constitution. However, there are concerns about the government's ability to deliver given the challenging political climate, economic struggles, security risks, and slow pace of reforms. The country's democratic fragility underscores the importance of ongoing efforts to achieve effective reforms, constitutional and otherwise.

Georgia

In 2022 in Georgia, there was no new substantial amendment to the Constitution. However, the bill initiated in the Parliament repeated word for word some parts of the 2021 amendment bill. The reader will learn the main reasons for that and the current status of both bills in this report.

Germany

In light of Russia's attack on Ukraine, the Federal Government decided to invest in the Armed Forces. To this end, Article 87a of the Basic Law (*Grundgesetz*) was amended. Its Section 1a gives the Federation the power to set up a special trust with its credit authorization for a single amount of up to 100 billion euros.

Greece

The discussion over the secrecy of communications as guaranteed in Article 19 of the Constitution was the main concern of the Greek public sphere in 2022. The National Intelligence Service was accused of intercepting communications of politicians and other public figures in Greece, and as a result, the law implementing the aforementioned constitutional provision has changed.

Guatemala

No formal constitutional amendments were ratified within Guatemala in 2022. However, it is noteworthy that two advisory opinions, issued by the Constitutional Court in January 2022, might have resulted in some modifications to the oversight functions of Congress.

Honduras

The first development in constitutional reform in 2022 in Honduras is the derogation of the Special Zones for Employment and Economic Development. This reform is yet to be enforceable as it must be ratified. The other development that remains a proposal in Congress is the creation of the Anti-Corruption International Commission in the Constitution.

Hong Kong

On December 30th, of 2022, for the first time, and upon request from the Chief Executive of Hong Kong, the Standing Committee of the National People's Congress issued an interpretation regarding Articles 14 and 17 of the Hong Kong National Security Law.

Hungary

In 2022, the Hungarian government continued to function under the state of danger, the special legal order extended by an amendment to the Fundamental Law. Furthermore, another amendment changed the election calendar by requiring local and EP elections to be organized on the same date.

India-1

The Supreme Court reaffirmed its power to review legislative processes in cases of both substantive and procedural illegality. It extended this power to include processes that potentially challenge the democratic framework enshrined in the Constitution, which may possibly be considered in tension with Articles 122 and 212 of the Constitution.

India-2

These included the conferment of a constitutional right to reproductive autonomy, a split decision on an order banning headscarves from state-run educational institutions, and a declaration that an extension of affirmative action to economically weaker sections of the society does not violate the basic structure doctrine.

Indonesia

The year 2022 is a continuation of efforts to amend the Constitution. At least two main agendas signify the following echoed suggestions. First is the reinstatement of the General Guidelines for State Policy. Second is the addition of the presidential term of office.

Ireland

Major changes arose in Ireland's electoral system in 2022 when the nation's parliament granted constitutional control over the process to a new commission (*Coimisiún Toghcháin*), which took on the responsibility for the nation's referendum process amid a pending question posed to the people about housing.

Israel

An amendment to Basic Law: The Government which changed the conditions for being appointed to a ministerial position so that only a person who served an actual prison sentence could not serve as a minister. This change was meant to allow MK Aryeh Deri to be appointed as a minister in the government that was established in 2022.

Italy

In 2022, two constitutional reforms were passed. One establishes the principle of protection of the environment, biodiversity, and ecosystems, also in the interest of future generations, and makes animal protection a state responsibility. The second recognizes the principle of insularity and requires the state to promote measures to address disadvantages.

Jamaica

In January 2022, the Ministry of Legal and Constitutional Affairs was established and given responsibility for constitutional reform. The Ministry formed a Constitutional Reform Committee, and that committee has started to meet to provide oversight and guidance on the process of reform and help build national consensus.

Japan

On July 8th, 2022, former Prime Minister Shinzo Abe, celebrated for vigorously promoting constitutional revision, was shot to death. Without the biggest facilitator, the path to formal constitutional revision seemed far off. Constitutional *revision* has not been achieved again this year. But there are important developments in *de facto* constitutional *reforms*.

Jordan

Jordan's Parliament bolstered the King's power with constitutional amendments, enabling judicial appointments, dissolving Parliament, and assuming military control. Critics say this threatens democracy, while supporters believe it promotes stability. The new National Defense Council advises on security and economic growth amid Jordan's challenges.

Kenya

The first important development in constitutional reform in Kenya in 2022 is the Supreme Court's interpretation of the word "sex" under Article 27(4) of the Constitution to mean sexual orientation of any gender, whether heterosexual, lesbian, gay, intersex, or otherwise. The second development is that the President petitioned Parliament with proposals to amend the Constitution.

Lesotho

In August of 2022, a period before the National elections process, His Majesty the King declared a state of emergency and recalled the then-dissolved Parliament of Lesotho to pass the *11th Amendment to the Constitution Bill 2022* and the *National Assembly Electoral (Amendment) Bill 2022*.

Lithuania

In 2022, three constitutional amendments were introduced directly to the text. First, the age of a parliamentary candidate was lowered from 25 to 21. Second, direct mayoral elections were allowed implementing the previous constitutional ruling. Third, the ban on impeached people running for office that requires an oath was lifted.

Luxembourg

In December 2022, the Luxembourgish parliament adopted numerous constitutional amendments, many of which comprehensively and fundamentally overhauled the Constitution to rebalance legislative, executive, and judiciary powers. This reform enhanced democracy, the rule of law, and human rights. The "amended" Constitution will enter into force on July 1st of 2023.

Malawi

All of Malawi's 2022 proposed constitutional reforms relate to elections. Although all the reforms are relatively minor, the proposed reform relating to the reconstruction of the composition of the Electoral Commission is, arguably, the most significant.

Malta

In 2022 the Maltese Parliament passed a single minor constitutional amendment on the reorganization of the Civil Protection Department. The Government presented further reform bills on the freedom of expression, freedom of the media, and fundamental rights related to procreation. Many other issues of constitutional concern remain to be addressed.

Mexico

The year 2022 was characterized by an amendment that marked a crucial milestone in the long-standing constitutional dismemberment of the civic-military relationship, and two failed constitutional amendments endorsed by President Lopez Obrador, which aimed to guarantee the State's predominance in electricity production and transform the structure of the electoral authority.

Mozambique

In 2022, without any reform to the constitutional text, the most important constitutional development was the controversial decision of the Constitutional Council (Ac. 03/CC/22), refusing to declare the unconstitutionality of the law regarding the time limits for preventive detention, which, according to complaints by lawyers and civil organizations, allows for the unjustified extension of preventive detention.

Myanmar

Myanmar's constitutional discourse is fractured, with the February 2021 military coup d'état resulting in a nationwide conflict between the military junta and opposing pro-democracy forces. The conflict instigated a constitutional divide, with the military committed to a 2008 Constitution that enshrines its dominance and the pro-democracy resistance working to draft a new constitution.

Namibia

This report unravels the constitutional reforms that unfolded in Namibia in 2022 amidst pressing social-political challenges. Those reforms include the Repeal of Obsolete Laws Act, the Access to Information Act, and amended gender rights laws. The report outlines issues arising from the Supreme Court judgments and laws enacted by Parliament.

Netherlands

The Netherlands introduced a General Provision at the start of its Constitution, reading “The Constitution guarantees fundamental rights and democracy based on the rule of law.” This General Provision is unlikely to have significant practical consequences but holds an important symbolic function.

New Zealand

The most important development of 2022 in New Zealand was an aborted attempt by the Government to legislatively entrench public ownership requirements of water infrastructure and service providers. The attempted entrenchment proceeded by way of a last-minute amendment in the legislative process seeking to lock in a politically partisan policy preference.

Nigeria

Though neither the Constitution nor judicial interpretation has assigned any role to State Governors, the lack of autonomy of State Assemblies from executive control ensures the Governors’ informal hegemony over the legislature. The Governor’s influence and the President’s gatekeeping role have greatly reduced the number of proposed reforms.

Pakistan

In a significant constitutional crisis, a no-confidence motion against the Prime Minister, Imran Khan, was initiated in 2022. It was averted by the timely intervention of the Supreme Court restoring the National Assembly and declaring the government’s decision to dissolve the assembly against the Constitution, yet removing the Prime Minister subsequently.

Palestine

The situation in Palestine has been declining since 2007, mainly due to the continuous imposition of a state of emergency since the parliament’s suspension in 2007 and its dissolution by the Supreme Constitutional Court in December 2018. President Abbas has been exploiting the state of emergency to maintain his power. This exploitation was made evident by two recent significant events: the assassination of activist Nizar Banat and the delay of parliamentary and presidential elections.

Portugal

In 2021, the pandemic crisis, along with the declaration of a state of emergency and the dissolution of the Assembly of the Republic, blocked any chance of constitutional revision. It was only in October 2022 that a new procedure was initiated, with eight projects currently under discussion.

Republic of the Congo

The Republic of Congo (or ‘Congo-Brazzaville’) implemented several constitutional reforms in 2022 in the areas of anti-corruption laws, the procedure for amending the Constitution, the COVID-19-related state of emergency, gender-based violence, and the Freedom of Communication Council. Looking forward, the report also pays particular attention to the State Reform Plan.

Romania

One Constitution revision proposal is pending, aiming to amend the right to be elected. A citizen initiative concerning the candidate’s appointment for the office of Prime Minister was negatively endorsed by the Legislative Council. 2023 announces a year of constitutional debates against the background of the 100th anniversary of adopting the Constitution of unified Romania.

San Marino

In 2022, despite a consensus reached in 2020 on the necessity for the Sammarinese legal system to undergo a significant constitutional reform, amendments to the Declaration of Citizens’ Rights and Founding Principles of the Sammarinese Legal System or constitutional laws have neither been proposed nor passed.

Sierra Leone

Constitutional reform in Sierra Leone mainly entailed revisiting the 2017 constitution reform recommendation that had been proposed by Justice Cowan Committee. A White Paper was unveiled by President Julius Maada Bio, accepting some of the recommendations while rejecting others.

Slovak Republic

2022 was another uneventful year in terms of formal constitutional change. Yet, Slovakia experienced constitutional progress through litigation that dealt with the constitutionality of certain aspects of a referendum, fiscal responsibility, and the protection of the material core of the Constitution. The year culminated in the no-confidence vote against the Government, indicating turbulent constitutional developments in 2023.

Slovenia

In 2022, the governing coalition submitted a formal proposal to the Parliament to initiate the procedure for amending the Constitution, with the objective of diminishing the influence the legislature currently wields over the composition of the judiciary and therefore rearranging the balance of powers between the three branches of government.

South Africa

The most important developments in Constitutional reform within South Africa included both amending Section 6 of the Constitution of the Republic of South Africa to elevate South African sign language to an official language and amending Chapter 9 of the Constitution to include a Cyber Commission as an institution strengthening constitutional democracy.

Sri Lanka

In 2022, the 21st Amendment to the Sri Lankan Constitution reintroduced the Constitutional Council. The Council, consisting of seven Parliamentarians and three independent members, recommends or approves appointments to key public offices. While this amendment restricts presidential powers, it falls short of the people's demands for radical reform of the executive presidency.

Sweden

During 2022, there were several constitutional amendments with two standing out as the most controversial. The first is the possibility to limit the freedom of association in regards to terrorist organizations. The second is the criminalization of foreign espionage in regards to the media.

Switzerland

Switzerland adopted one amendment to the Federal Constitution. It mandates that the Confederation and the cantons promote the health of children and adolescents and prohibit all advertising for tobacco products that may reach them. Furthermore, the ECtHR ruling on widowers' pension has shown how Switzerland relies on an international body and on the Convention to resolve a counter-majoritarian concern and to indirectly enforce its own constitution.

Taiwan

In November 2022, Taiwan held its first-ever constitutional referendum, which aimed to lower the voting age from 20 to 18. Despite bipartisan and public support, the long-overdue constitutional reform of the voting age failed to pass the ratification threshold.

Thailand

In 2022, many attempts at constitutional reform failed. The most controversial attempt was the unsuccessful effort to 'unlock the local administration' by Thanathorn Juangroongruangkit. However, the attempt at least succeeded in stirring attention toward the current highly centralized administration among broader segments of Thai society.

Tunisia

In 2022, a new Constitution was promulgated in Tunisia. Undoing the revolution's achievements, the constitutional reform implemented a presidential regime and weakened human rights protection.

Turkey

Current efforts to dissolve the second-largest opposition party in Turkey's parliament ahead of parliamentary and presidential elections are the latest in a deeply problematic practice in Turkey of forcing the closure of political parties. The author of this section has recently become the target of a campaign of judicial harassment.

Uganda

The year 2022 did not see many major constitutional developments since the country was recovering from the COVID-19 pandemic and the elections that had just returned President Yoweri Kaguta Museveni and NRM political party into power. This was after the amendment of Article 102 of the 1995 Constitution regarding presidential age limits.

Ukraine

Due to the Russian invasion in 2022, the Ukrainian government introduced martial law, which has inevitably restricted the constitutional process. Still, due to the continuation of the Constitutional Court's work, there were some elements of the constitutional process in 2022 within Ukraine. Also, as Ukraine received EU candidate status, new reforms started, one of which addressed the Constitutional Court members' selection.

United Kingdom

2022 saw two key reform proposals. The first from the government is to repeal the Human Rights Act 1998 and replace it with a Bill of Rights. The second proposal is the report by the Labour Party's Commission on the United Kingdom's Future. Should Labour win the next general election, this highlights the prospect of significant constitutional reform.

United States of America

In June 2022, the United States Supreme Court held in *Dobbs v. Jackson Women's Health Organization* that, "the Constitution does not confer a right to an abortion." This holding reversed a nearly fifty-year precedent and opens the door to potential additional reform of constitutionally protected individual rights jurisprudence.

Uruguay

The most important advance of the constitutional reform in Uruguay was the consideration of bills related to nationality. This would informally modify the Constitution, by not using the procedures of Article 331, but the procedures for the elaboration of the ordinary law and of the interpretative law of the Constitution.

Vietnam

Resolution 27-NQ/TW on the socialist rule-of-law state adopted by the CPV in 2022 is a significant step forward to constitutionalism, promising broader constitutional reforms in Vietnam. Nevertheless, various challenges exist to these constitutional reforms relating to the internal opposition in the Vietnamese political system and the participation of local people.

