

# Sujit Choudhry

## Head of Chambers

### Executive Summary

Sujit Choudhry is Head of Chambers for Hāki Chambers Global. He practices constitutional law, in Canada and globally (through Sujit Choudhry Professional Corporation).

Sujit has a broad public law practice on questions of constitutional law, administrative law, public international law, and international human rights law in the Canadian courts, including in judicial reviews, appeals, and arbitrations. He frequently appears as counsel, including in the Supreme Court of Canada, in Charkaoui (security certificates), and in Khadr 1 and Khadr 2 (Guantanamo detainees).

He has litigated and advised on public law issues in a wide variety of contexts, including social media, political party governance, public health, national security, telecommunications, aviation, labour relations, agriculture, education, social assistance, social services, gaming, democratic reform, and emergency powers.

He is currently leading one of the challenges to the public order emergency declared under the Emergencies Act and is counsel before the Public Order Emergency Commission (the Rouleau Commission).

Sujit is often retained by other lawyers to work with them on complex constitutional cases, including to serve as co-counsel. He also frequently appears as counsel for, or co-counsel with, legal clinics and public interest organizations.

He also has an extensive counsel practice, providing advice on complex constitutional issues to individuals, large and small corporations, Canadian governments, foreign governments, government commissions and committees, public sector agencies, industry trade associations, and international organizations.

For over 20 years, Sujit has been an advisor to constitutional reform, democracy support and peace processes, including in Cyprus, Egypt, Ethiopia, Jordan, Libya, Myanmar, Nepal, South Africa, Sri Lanka, Sudan, Tunisia, Ukraine, Yemen and Zimbabwe. He has lectured or spoken in three dozen countries.

He founded and directs the Center for Constitutional Transitions (Center for Constitutional Transitions) (CT) which generates and mobilizes knowledge in support of constitution building by assembling and leading international networks of experts to produce evidence-based policy options for decision-makers and agenda-setting research, in partnership with a global network of multilateral organizations, think tanks, and NGOs. CT has worked with over 50 experts from over 25 countries.

Sujit is a Senior Advisor to the Forum of Federations, and sits on the International Advisory Board of the International Institute for Integrated Transitions. He is currently co-convenor of the Initiative on Apex Court Appointments.



### Contact Details

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He served as Law Clerk to former Chief Justice Antonio Lamer of the Supreme Court of Canada before being called to the Bar of Ontario in 2001.

For nearly two decades, Sujit was a full-time constitutional law scholar at the University of Toronto, NYU, and UC Berkeley (where he served as Dean). He has published over 100 articles, book chapters, working papers, and reports, and he has lectured or spoken in over three dozen countries. His work has been cited with approval by the Supreme Court of Canada, the Supreme Court of New Zealand, and courts across Canada.

## Education

- B.A. (Law), Oxford (as a Rhodes Scholar)
- J.D., University of Toronto
- LL.M., Harvard
- Q.Arb, ADR Institute of Canada

## Selected Awards & Recognition

- Trailblazer Awards, South Asian Bar Associations of Southern California and Northern California
- Practitioner of the Year, South Asian Bar Association of Toronto
- Trudeau Fellowship

## Representative Mandates

- ***Canadian Constitution Foundation v. AG Canada*** (challenge to legality and constitutionality of public order emergency declared under the *Emergencies Act*)
- ***Public Order Emergency Commission*** (public inquiry into public order emergency declared under the *Emergencies Act*)
- ***Bjorkquist et al. v. AG Canada*** (*Charter* challenge to derivative citizenship provisions of the *Citizenship Act*, on the basis of section 15 discrimination based on national origin and sex, section 6 mobility rights, and section 7)
- ***Haseeb v. Imperial Oil*** (*Ontario Human Rights Code* challenge to citizenship discrimination in employment)
- ***Heegsma v. City of Hamilton*** (*Charter* challenge to homeless encampment evictions on the basis of sections 7 and 15 discrimination on the basis of race, indigeneity, sex, marital status and disability, and the *International Covenant on Economic, Social and Cultural Rights*)
- ***Zoghbi v. Air Canada*** (*Charter* challenge to decision of the Canadian Human Rights Commission, in a case of racial profiling, that international aviation exempt from remedy of damages under *Canadian Human Rights Act*, on the basis of section 15 of the *Charter* and the *International Convention on the Elimination of all Forms of Racial Discrimination*)



- **Hutlet v. AG Manitoba & AG Canada** (*Charter* challenge to clawback of the CPP disability pension from provincial disability benefits, on the basis of sections 7 and 15 of the *Charter*)
- **Cool World v. Twitter** (whether Twitter subject to good faith, public policy and unconscionability doctrines in contract law that incorporate the right to freedom of expression and render void some of its policies on promoted tweets and advertisements)
- **Bakan v. AG Canada** (*Charter* challenge to Canada's failure to regulate social media platforms to protect freedom of expression under section 2(b) of the *Charter*)
- **Jacob v. AG Canada** (*Charter* challenge to *Canada Emergency Response Benefit*, *Canada Recovery Benefit* and *Canada Recovery Sickness Benefit* for discriminating against disabled workers in breach of section 15 of the *Charter*)
- **Turner v. Death Investigation Oversight Council** (first judicial review of Ontario's oversight body for forensic pathology established in response to the Goudge Inquiry)
- **Annamie Paul v. Green Party of Canada** (arbitration of internal party proceedings)
- **Charkaoui v. Canada (Citizenship and Immigration)** (*Charter* challenge to security certificates under section 7)
- **Khadr v. Canada (Justice) & Canada (Prime Minister) v. Khadr** (*Charter* rights of Canadian Guantanamo Bay detainee under section 7)
- **NM v. Dufferin-Peel Catholic District School Board** (contempt powers of the Human Rights Tribunal under the *Ontario Human Rights Code*)

## Constitutional Opinions and Advice

- **public health:** *Charter* issues arising out of COVID-19 vaccine passports
- **telecommunications:** a constitutional challenge to proceedings brought by the Commissioner of Competition seeking an administrative penalty of hundreds of millions of dollars
- **labour relations:** a *Charter* remedies dispute involving billions of dollars arising out of a constitutional challenge to public sector collective bargaining legislation
- **agriculture:** a constitutional opinion on federal and provincial jurisdiction over agriculture, in the context of a potential challenge to provincial legislation
- **education:** a constitutional challenge to the failure of a provincial government to fully fund therapy for autistic children
- **social services:** a constitutional challenge to the decision of a provincially-funded social service provider on an issue involving child welfare
- **gaming:** a claim for compensation by members of an industry trade association in response to the cancellation of licenses by a provincial regulatory authority
- **democratic reform:** a high stakes federal-provincial dispute over proposed federal legislation to allow for an elected Senate

## Selected International Engagements

### Africa

- Legal consultant to International IDEA in relation to Sudan constitutional process, to provide technical advice on constitutional courts, executive powers, and federalism (present).
- Legal consultant to International IDEA in relation to constitutional reform in Ethiopia (present).
- Legal consultant to International Institute for Integrated Transitions, in relation to Constitutional Court appointment procedure in Zimbabwe (2020).

### Asia

- Legal consultant to International IDEA in relation to Myanmar peace and democratization processes, including technical support to Constitutional Tribunal, parliamentary committees, and the ethnic armed organizations/military dialogue (2019 to present, in Myanmar and Europe).
- External expert for meeting of civil society leadership in Colombo, Sri Lanka, convened by the Centre for Policy Alternatives and the Edinburgh Centre for Constitutional Law, on security sector oversight (2019).
- Participated in an expert consultation co-convened by the Center for Policy Alternatives (Sri Lanka) and International IDEA to advise Prime Minister Wickremesinghe on constitutional reform, including meeting personally with the Prime Minister to brief him on the results of our consultation (2015).
- Engaged parliamentarians, civil society, and the diplomatic community in a public lecture, invitational workshop and private sessions, in Colombo, on power-sharing options (including electoral system design and executive powers) for Sri Lanka (2012).
- Served on a team providing technical advice on the redesign of Nepal's judicial system to adapt it to a federal structure through consultations with the legal profession and judiciary, in support of the Nepal Bar Association; and led workshops on official language rights for the indigenous peoples' caucus of Nepal's Constitutional Assembly (hosted by International IDEA), and on the right to self-determination for indigenous peoples under international law (hosted by UNDP) (2010).

### Europe and United Nations

- External expert for Track 2 meeting in Nicosia, Cyprus, convened by the Government of Canada and the Forum of Federations, hosted by the United Nations, on federal options for Cyprus (2019).
- Launched report on semi-presidentialism to members of the Constitutional Commission of Ukraine in Kyiv at a high-level workshop co-convened by the European Union, the Venice Commission (European Commission for Democracy through Law), International IDEA, and the Center of Policy and Legal Reform (Ukraine) (2018).
- Invited participant in Expert Group meetings in Geneva and New York on Transitional Justice and Atrocity Prevention to advise Pablo de Greiff, UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence & Adama Dieng, UN Special Adviser of the Secretary-General on the prevention of genocide (2017).



- Co-chaired a two-day international meeting in Brussels to present the preliminary results of the Territory and Power project, in cooperation with the European Union External Action Service and hosted by the European Union Committee of Regions, attended by nearly 100 representatives of multilateral organizations (including the United Nations), regional organizations, MFAs, ODAs, NGOs, and technical advisors (2015).
- Co-chaired an international meeting of experts from Africa, Asia, Latin America, the Middle East and North Africa, North America and Western Europe at the Canadian embassy in the Hague, in partnership with International IDEA, for the [Security Sector Reform & Constitutional Transitions In Emerging Democracies](#) project, to explore the role of security sector reform in constitutional reform processes (2014).

## Middle East and North Africa

- Legal consultant to Yemen multi-party dialogue, convened by International IDEA under the auspices of the UN Special Envoy of the Secretary-General for Yemen as part of the peace process, including preparation of technical reports and working with political party leaders (2018 to present, in Tunisia and Europe).
- Served as a senior international scholar in residence at the Academy of the Arab Association of Constitutional Law in Tunis, leading seminars and working intensively with emerging constitutional experts from across the Arab region (2016 & 2019).
- Co-chaired an international meeting of experts from Latin America, the Middle East and North Africa, North America and Western Europe at the Canadian embassy in Tunis, in partnership with International IDEA, for the [Security Sector Oversight: Protecting Democratic Consolidation From Authoritarian Backsliding & Partisan Abuse](#) project, to explore legal and institutional mechanisms for security sector oversight in transitional democracies (2014).
- Directed the [Constitutional Transitions Clinic](#) (at the New York University School of Law), that deployed 40 student researchers from 11 countries stationed in the United States, Beirut, Cairo and Tunis to support International IDEA's Middle East constitution building program; produced [six technical reports](#) (in English and Arabic) on constitutional design in the Middle East and North Africa, jointly published by International IDEA, CT, and (for three reports) UNDP, and served as the lead author on these reports; made two missions to Tunisia with the research team to present draft reports and consult President Marzouki, legal experts, parliamentarians with responsibility for the constitutional process, academic experts, civil society, and university students (2012 to 2014).
- Member of a joint Egyptian-international expert group, convened by International IDEA in cooperation with the Swiss Agency for Development and Cooperation, to review a draft of the Egyptian constitution in Cairo (2013).
- Drafted a report for International IDEA on design options for the Libyan constitutional process (prior to the election of the Constitutional Assembly of Libya), which addressed possible mechanisms to coordinate the work of the Constitutional Assembly and the General National Congress (GNC), and led a workshop in Tripoli with members of the GNC to review and discuss these options (2012 to 2013).
- Participated as international expert in workshop convened by International IDEA to review a draft of the 2011 Jordanian constitutional amendments in Beirut (2012).