



Research Monograph
on

**Constitutional Culture and the Failure of Norm Internalization in
Bangladesh**

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Acknowledgement

At first, thanks to Almighty, who has been kind enough to let me complete this **“Constitutional Culture and the Failure of Norm Internalization in Bangladesh”** research monograph in right time.

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From beginning of my research, I am personally indebted to some book writers for their kind and valuable writings. Thanks to all from the bottom of my heart.

Signature

Declaration

This is, student ID: of LL.B program of Department of Law of Sonargaon University, do hereby declare that the research monograph titled “**Constitutional Culture and the Failure of Norm Internalization in Bangladesh**” an original work. The assigned work has done by me for partial requirement of my LL.B degree, this is part of academic curriculum. I certify that this thesis has not been submitted to obtain any degree in any university, and that to the best of my knowledge and belief it does not contain any material previously published or written by another person except where due references is made in the text.

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Letter of Transmittal

To,

Sonargoan University

Subject: For the submission of research monograph titled “**Constitutional Culture and the Failure of Norm Internalization in Bangladesh**”.

Dear Sir,

With due respect and humble submission, I am honored to present my research monograph titled “**Constitutional Culture and the Failure of Norm Internalization in Bangladesh**”, which has been prepared as a partial requirement for the completion of my Bachelor of Laws (LL.B Honours) under the Department of Law at Sonargaon University

This research has been carried out with utmost sincerity and dedication. I have made every effort to maintain the required academic standards and present a comprehensive analysis on the chosen topic. I respectfully submit this work for your kind perusal and academic evaluation.

If any clarification or further information regarding this monograph is needed, I will remain available at your convenience.

Yours faithfully,

ID:

Batch:

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Abstract

See Didi Herman, ‘Reimagining the State Based on a Radical Separation of Politics and Religion’¹, in Myriam Bleau and Ruth Rubio-Marín (eds), *The Gender of Constitutional Jurisprudence* (Cambridge University Press, 2005) 117–118: Definition III A constitutional culture refers to the shared policy commitment within an institution or society to maintain its own constitutional norms, values and principles as lived practices rather than mere formal texts.

Essential Components

This process involves the elites, citizens, and state actors internalizing the rule of law, separation of powers, fundamental rights, and democratic accountability. For Bangladesh, this would mean transcending the text of the 1972 Constitution with its polity-shaped secularism, communism-socialism-nationalism cocktail developed between 1950 and 1972 in favor of honest conduct, such as having an independent judiciary, holding free elections using a system that cannot be manipulated easily, limiting executive power legally, and tying up decentralized decision-making through democratic processes.

Internalization of Norms Failure

The 15th Amendment’s ban on caretaker governments is just one instance of the extent to which executives adjust constitutions opportunistically, judges yield to political pressure, and parliaments serve as rubber stamps. This makes the constitution not a legal social contract binding all of society, but rather an elastic tool for abrogating power, and betrays shabby civic education, elite predation, and poverty-induced apathy.

Manifestations Particular to Bangladesh

They include 2024 quota protests that unveiled unabashed authoritarianism under Sheikh Hasina, religious-secular toggling through constitutional amendments, and military coups that eroded checks and balances post-1975. Without internalization, constitutionalism boils down to “legal immunity” for offenses such as enforced disappearances. For norms to be woven into the fabric of society, they require genuine cultural processes and mass involvement.

¹ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2855959

List of Abbreviations

AL – Awami League

BAKSAL – Bangladesh Krishak Sramik Awami League

BNP – Bangladesh Nationalist Party

CRC – Constitutional Reform Commission

CTG – Caretaker Government

DSA – Digital Security Act

FPTP – First-Past-The-Post

CT – Information and Communication Technology

IPC – Indian Penal Code

NLCM – Norm Life Cycle Model

PIL – Public Interest Litigation

PMS – Prime Minister’s Secretariat

SDGs – Sustainable Development Goals

SMEs – Small and Medium-sized Enterprises

SHUJAN – Citizens for Good Governance

WTO – World Trade Organization

Chapter One: Introduction

1.1 Background of the Study

Its constitution, born in the crucible of liberation in 1971, is a paradox: an assertion of democratic ideals that authoritarian impulses have plagued. Lived practices, according to Didi Herman, are a collective political commitment to constitutional norms that transcends words. Chapter One, "Constitutional Culture and the Failure of Norm Internalization in Bangladesh," presents the study in this recurring context of norm decay.²

Historical Bases

The euphoria of liberation led to the 1972 Constitution, placing the Bhasani Four – nationalism, socialism, democracy, and secularism as the tenets of the state along with robust rights clauses, judicial review, and separation of powers. The early optimism did not last too long: Sheikh Mujibur Rahman reneged on pluralism by establishing a one-party state (BAKSAL) through the **4th Amendment (1975)**. Military coups happened, including Islamizing the preamble in Ershad's **8th Amendment (1988)** and giving martial law a legitimate form in Ziaur Rahman's **5th Amendment (1979)**. By 2024, there were an additional **17 amendments** that prioritized regime survival over accountability. These shifts betray "constitutional malleability," in which elites see the only law as elastic mud, not a sacred contract.³

Constitutional Culture: A Definition

Listed here, I should say, are relatively abstract things that (in Herman's words) need to be "lived out" by institutions, elites, and society as a whole: the rule of law; checks and balances. It is still aspirational in Bangladesh, to be sure, where rubber-stamp parliaments and post-15th Amendment (2011) failed elections have replaced the neutral caretaker arrangements with partisan appointments by the executive (the judiciary under the Awami League being a case in point). Poverty (25% below the line), illiteracy (75% function), and dynasty politics (Awami League; BNP) have dented civic education, resulting in norms that are announced but not experienced. In the 2024 quota protests that unseated Hasina's 15-year reign with no-holds-barred oppression, we see this.⁴

² https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2855959

³ <http://constitutionnet.org/news/voices/bangladeshs-constitutional-reforms-caught-between-democratic-hopes-and-authoritarian>

⁴ <https://vps.metrouni.edu.bd/wp-content/uploads/2019/04/A-Critical-Approach-to-Constitutionalism-Bangladesh-Perspective.pdf>

1.2 Concept of Constitutional Culture

Constitutional culture goes beyond a constitution's text to encompass the lived dimension of its norms, values, and principles in institutional/societal practice.

The Definition of Didi Herman

Constitutional culture, as Didi Herman writes in *The Gender of Constitutional Jurisprudence* (2005), is "the shared policy commitment within an institution or society to maintain its constitutional norms, values, and principles as lived practices rather than mere formal texts." This brings to the fore active internalization: not postulates that one should aspire to, but norms such as the rule of law, separation of powers, and fundamental rights must characterize everyday actions, choices, and expectations among elites, institutions, and citizens.⁵

Foundations of Theory

The idea is grounded in a more general constitutional theory that imagines constitutions as dynamic cultures shaped by custom, norms, and historical circumstances rather than as static texts. By showing how institutional arrangements evolve through practice of shared commitment, scholars such as those in the nascent literature can differentiate robust cultures - like Canada's of relational constitutionalism, encouraging diversity - from fragile ones where texts mask power imbalances. It blames formalism and demands a look at unwritten practices as the proper measures of the constitution's health: things like judicial independence, electoral fairness, and executive humility.⁶

Important Elements

Internalization Mechanisms: Education, precedent, and accountability spread norms promoting "policy commitment," in which transgressions result in group censure.

Institutional Aspect: Executives, legislatures, and courts all have values; merit-based hiring can avoid capture.

Sociological: Participatory discourse as a countervailing force against elite opportunism to secure mass obedience and buy-in.⁷

This is in contrast to "legalism," which understands obedience as performative rather than heartfelt.

⁵ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2855959

⁶ <https://lawreview.vermontlaw.edu/wp-content/uploads/2012/02/sheppard.pdf>

⁷ <https://lawreview.vermontlaw.edu/wp-content/uploads/2012/02/sheppard.pdf>

Bangladeshi Context

In Herman's analysis, the Bangladeshi constitutional culture collapses because 17 amendments that allow for authoritarian rule (such as the caretaker government's scrapping of the 15th Amendment) mean none of the democratic pillars of the 1972 Constitution are ever practiced. Amid poverty, dynastic politics, and insufficient civic education, executives dominate the judiciary, parliaments serve as rubber stamps, and impunity prevails. Yunus's proposed reforms for 2024–2025 highlight the gap and the risk of exclusion without normalization⁸.

Study Implications

Understanding constitutional culture helps explain failed norms: absent it, constitutions become rubbery tools of power, maintaining hybrid regimes. To grow it and make a durable democracy out of Bangladesh's paradox, inclusive procedures and education are needed.⁹

1.3 Norm Internalization: Meaning and Importance

Norm internalization is a process in which constitutional norms, values, and principles (ranging from the rule of law to the separation of powers to judicial independence, down to fundamental rights) are "absorbed" by people, organizations, or society at large into attitudes, actions, or practices. This is how rules from external sources become habits that enforce themselves.¹⁰

Fundamental Meaning

In other words, to act accordingly, the actors have to undergo a psychological and cultural change in which morals become intrinsically valued, guiding behavior and requiring no constant enforcement. In terms of Didi Herman's constitutional culture model, norms become "lived practices," with automatic adherence achieved through institutional precedents, peer pressure, social learning, and reduced reliance on legal sanctions.¹¹ Default cultural settings that help protect against abuse are the instinctive countervailing power of judges, voluntary limitations on executive power, and a presumption of accountability by citizens.¹²

⁸ <http://constitutionnet.org/news/voices/bangladeshs-constitutional-reforms-caught-between-democratic-hopes-and-authoritarian>

⁹ <https://vps.metrouni.edu.bd/wp-content/uploads/2019/04/A-Critical-Approach-to-Constitutionalism-Bangladesh-Perspective.pdf>

¹⁰ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2855959

¹¹ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2855959

¹² <https://lawreview.vermontlaw.edu/wp-content/uploads/2012/02/sheppard.pdf>

Current Bangladeshi Examples

The 2025 CRC report, which includes guarantor institutions, term limits, and judicial reform as measures to introduce checks and balances following the 2024 quota protests that abrogated Sheikh Hasina's regime, exemplifies attempts at half-baked internalization amid failure. But the exclusion of major parties such as the BNP and the Awami League is indicative of elite-led negotiations that instead erode collective ownership based on non-internalized norms from prior amendments.¹³

The dissension over secularism is also revealing: even if Islam remains the state religion and includes secular principles (Article 12A of the CRC), it still introduces pluralism in its preamble as an alternative. So long as talking continues while the attitudes and actions of pluralist inclusiveness are not practised or learnt, superficial internalisations fuel conflict and prevent the resolution of ideological tensions.¹⁴

The absence of internalization is also evident from the period between the (2011) abrogation of the caretaker government by the 15th Amendment and its practice in response to unrest. For a significant time, formal standards existed without being acted upon, and executive predominated.¹⁵

Relevance and Consequences

Unlike Bangladesh's pendulum of bend and break, internalization is the guarantor of the norm that survives crises, endowing the constitution with resilience, moral authority, and endurance. Without it, texts become façades for authoritarianism, as happened during Hasina's 16-year rule, which delivered economic aggrandizement but also the demolition of institutions. For genuine embedding, pathways must involve inclusive reform and civic education.¹⁶

¹³ <https://blog-iacl-aidc.org/2025-posts/2025/3/27/bangladeshs-constitutional-crossroads-reforms-exclusion-and-the-quest-for-democratic-legitimacy>

¹⁴ <http://constitutionnet.org/news/voices/bangladeshs-constitutional-reforms-caught-between-democratic-hopes-and-authoritarian>

¹⁵ <https://www.thedailystar.net/slow-reads/big-picture/news/bangladeshs-constitutional-journey-revisited-battleground-peoples-power-and-political-control-3927366>

¹⁶ <https://blog-iacl-aidc.org/2025-posts/2025/3/27/bangladeshs-constitutional-crossroads-reforms-exclusion-and-the-quest-for-democratic-legitimacy>

1.4 Statement of the Research Problem

Its 1972 constitutional design has failed again and again to instill a vibrant culture of constitutionalism because the rule of politics, as well as institutions and society, has not internalized its basic democratic norms. This research question revolves around the extent to which the progressive language of the Constitution—**substantive secularism, judicial independence, separation of powers, and fundamental rights**—is set apart from authoritarian practices, institutional capture, and the personalization of power that have contributed to undermining its legitimacy over the **last five decades**. It's not just that the convention has been twisted to suit ruling elites rather than ordinary people, despite numerous (17 so far) changes; we are in a more profound crisis of norms.¹⁷

And it manifests as a host of deep-seated patterns. The judiciary is nominally independent but vulnerable to executive interference and politicization, and Article 70 reintroduces inflexible party-line voting that stifles parliamentary debate and allows the prime minister to dominate. With the continued wrangles over caretaker governments, which have finally been annulled by the **Supreme Court in 2011**, but still open the gate for Election Commissions and integrity institutions to become puppets of the government, all sense of fair play is thrown out in elections. Continued tensions are illustrated by the interim government's recent 2024–2025 reforms, which threaten to consolidate power further while shutting out opposition voices.¹⁸

A lack of democratic institutions, poverty, a high rate of illiteracy, and an "immature" political culture - all of this prevents the internalisation of norms. Unlike its peers — such as Sri Lanka or India, where “stealth constitutionalism” has proved able to adapt and cut the Constitution informally — the casualness of judicial resilience ensures that, because power is personalized, authority inevitably resides in individuals who can undermine checks and balances. Amendments breed paradoxes that erode democracy by placing the party line above the common good.¹⁹

Significance and Immediacy

The political meltdown that unseated the Awami League in 2024 is evidence this absence of right and wrong perpetuates cycles of authoritarianism. Bangladesh could face instability and delayed democratic consolidation if it fails to foster a culture in which adherence to constitutional norms becomes the norm. The solution, they argue, is comprehensive reform that emphasizes judicial protections for civil society and transparency through civic education to narrow the theoretical-practice gap.²⁰

¹⁷ <https://constitutionnet.org/news/voices/bangladeshs-constitutional-reforms-caught-between-democratic-hopes-and-authoritarian>

¹⁸ <https://constitutionnet.org/news/voices/agenda-and-dilemmas-constitutional-reform-bangladesh>

¹⁹ <https://constitutionnet.org/news/voices/bangladeshs-constitutional-reforms-caught-between-democratic-hopes-and-authoritarian>

²⁰ <https://hull-repository.worktribe.com/output/5087793>

1.5 Research Questions

The term "constitutional culture" describes the common standards, beliefs, and behaviors that incorporate constitutional values into day-to-day political and social interactions, encouraging adherence to the rule of law beyond the law's scope. Because of the failure to internalize norms, authoritarian tendencies, political elite capture, and low civic engagement, constitutional provisions such as judicial independence, democratic accountability, and the separation of powers in Bangladesh are undermined.²¹

Fundamental Research Questions

These inquiries explore why, despite repeated democratic promises, Bangladesh's constitutions, beginning in 1972, have failed to foster a robust constitutional culture.

How has the public's internalization of values such as parliamentary supremacy and fundamental rights been undermined by political instability, including military takeovers and one-party rule (1975–1991)?²²

How much do elite dominance, bureaucratic inefficiencies, and underdeveloped political institutions impede the conversion of constitutional text into accountable governance?

Why, in the face of democratic backsliding, have systems like the Caretaker Government (later annulled) and the judicial fundamental structure doctrine failed to foster adherence to norms?²³

Structure of Theory

Bangladesh demonstrates "constitution without constitutionalism"—frequent amendments abused for executive gain and the sidelining of public deliberation—while norm internalization is based on the constitutionalism theory, which holds that higher law restricts arbitrary power.

²¹ <https://vps.metrouni.edu.bd/wp-content/uploads/2019/04/A-Critical-Approach-to-Constitutionalism-Bangladesh-Perspective.pdf>

²² <https://vps.metrouni.edu.bd/wp-content/uploads/2019/04/A-Critical-Approach-to-Constitutionalism-Bangladesh-Perspective.pdf>

²³ <https://constitutionnet.org/developmentzone.co/news/voices/bangladeshs-constitutional-reforms-caught-between-democratic-hopes-and-authoritarian>

Poverty, illiteracy, and partisan culture are the leading causes of failure, preventing the general public from taking ownership of standards like the rule of law.²⁴

Empirical Indicators Party-line voting under Article 70 suppresses dissent and permits the prime minister to overreach.

The lack of widespread participation in exclusionary reforms (such as the commissions of 2024–2025) fuels mistrust.

Resilience gaps are revealed by judicial politicization and the lack of guarantor institutions.²⁵

Reform Implications

To address this and prevent cycles of crisis governance, it is necessary to decentralize power, improve civic education, and firmly establish inclusive amendment procedures to help people internalize norms.

²⁴ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3876801

²⁵ <https://blog-iacl-aicd.org/2025-posts/2025/3/27/bangladeshs-constitutional-crossroads-reforms-exclusion-and-the-quest-for-democratic-legitimacy>

Chapter Two: Theoretical and Conceptual Framework

2.1 Constitutionalism and Constitutional Culture

Constitutionalism holds that, to prevent arbitrary rule and protect individual rights, authority must be constrained and a higher law—especially a written constitution—is necessary to limit government. The 1972 Constitution has become an elusive ideal in Bangladesh, marked by executive dominance, incessant constitutional amendments, and military takeovers — what is commonly referred to as "constitution without the rule of law." The incorporation of these values into society under the Constitution—so that the rule of law, separation of powers, and rights are norms rather than just written on paper—is called constitutional culture.²⁶

This is a culture that encourages a political ethic in which power limits are internalized by leaders and citizens, requiring compliance beyond the formal institutions of government. Bangladesh's own history is illustrative of the lack thereof: for all the nationalism, socialism, democracy, and secularism promised in the Preamble,[29] repeated derogations, most notably a one-party state (the 4th Amendment 1975) and abolition of caretaker governments (the 15th Amendment; 2011), betray elite manipulation over public determination. Poverty, illiteracy, and partisan politics subvert this culture, just as weak institutions fail to translate the word of the Constitution into responsible governance.²⁷

There are two parts to constitutionalism, authors say: a cultural one that demands societal support for the system to survive, and a structural one that restrains government through checks and balances. Unlike in stable democracies, where constitutional culture is a product of deliberation, military coups (1975; 1982) and the politicization of the judiciary in Bangladesh are clear examples of erosion. As a result of the anti-defection clause in Article 70, which suffocates legislative autonomy, Bangladesh lacks democratic accountability, entrenched dispute resolution, and hierarchical norms that define functional constitutionalism in Europe's postnational orders.²⁸

²⁶ <http://www.asaub.edu.bd/asaubreview/data/v8n1sl17.pdf>

²⁷ <https://vps.metrouni.edu.bd/wp-content/uploads/2019/04/A-Critical-Approach-to-Constitutionalism-Bangladesh-Perspective.pdf>

²⁸ <https://www.cambridge.org/core/books/abs/deciphering-the-genome-of-constitutionalism/constitutional-identity-in-bangladesh/CBFE83EB75269AA6066D68A009EAD2C9>

To nurture a constitutional culture, an essential and inclusive reform process calls for civic education, not because Bangladesh's 2024–2025 commissions (re)neglected minorities, but to reaffirm unresolved legitimacy gaps. Unlike past deviations from its original spirit of equality and justice, the C does not rely on text but on a "congenial sense" of common values. To understand Bangladesh's failures in this context of ongoing democratic backsliding, this subchapter conceptualizes constitutional culture as essential to norm resilience.²⁹

2.2 Theories of Norm Internalization

In phases such as emergence, cascade, and habituation, theories of norm internalisation explain how constitutional principles pass into inward belief from outward compulsion. According to the Norms Life Cycle Model of Finnemore and Sikkink (NLCM), norms begin with norm entrepreneurs, are transmitted through networks, and internalize through institutionalization. But in Bangladesh, contestation keeps constitutional norms from advancing beyond the cascade. This is where Wiener's theory of contestation becomes important in a country like Bangladesh, where the debate over whether rights norms are applicable or torture prohibited rages on: internalization is recast as validity rather than immediate compliance.³⁰

The constructivist approach is very much based on socialisation: exposure, through education or trial and error, of norms being internalised (for example, violation of international law, where we observe judicial processes showing behind violence). But elite capture and cultural resistance stand in the way of this in Bangladesh, such as implicit bias during decision-making processes that strengthen persistent gender-biased norms even when equality is promised in the constitution. As per institutional theory, behavior isomorphism (coercive, mimetic, and normative pressures) influences the behavior, but Bangladesh politics and SMEs copy patronage more instead of rule-based practices.³¹

According to game-theory models of strategy, norms are coordination games among actors, and mutually assured restraint is required for constitutional norms (like the norm against court-packing). Power grabs are just one instance of how Bangladesh deviates from the norm, meaning through changes that consolidate executive power. Shift from secularism to Islamism: An example of how democratic alarm implies that norm erosion enables authoritarianism (8th Amendment, 1988). Fat institutional descriptions emphasize historical contingency—norms are

²⁹ <https://www.dhakalawreview.org/blog/2014/11/constitutionalisminbangladesh-495>

³⁰ <https://www.cambridge.org/core/journals/global-constitutionalism/article/norm-internalisation-revisited-norm-contestation-and-the-life-of-norms-at-the-extreme-of-the-norm-cascade/BE007D475B0CD5EF70B97B477DEAA96F>

³¹ <https://icrrd.com/public/media/07122023075229-SME-in-Bangladesh.pdf>

arbitrary but normative in a decorative sense, as if they were "constitutive conventions"—quasi-Hobbesian opioid theodicies of values.³²

There are four NLCM stages, and regression is the fourth, when outdated norms expire; after 1991, in Bangladesh, the former core ideology of socialism began to fade. The southern agency theory of SDG formulation shows that local-global tension is still at play, even though the policy entrepreneurs push for norms like poverty reduction. As long as there is no downward accountability and internalisation does not take root in Bangladesh, cycles of reform and reversal will persist. These theories highlight how these types of ongoing contestation consign constitutional norms to a mere veneer unless accompanied by robust socialization.³³

2.3 Relationship Between Law, Society, and Culture

There are fraught interactions between law and society in pluralistic societies like Bangladesh. Still, the dynamic that evolves — of reciprocal influences between what laws reflect (social action) and what social action is guided by (law) — generates a distinctive context in which legal norms inadvertently shape social practices. Law is there, in a dialectic symbiosis with culture, to affirm as values while rejecting as customs of discrimination (speech acts). Constitutional guarantees may steady the winds, but the roots lie in universal practice. Appellate Law presents a challenge to custom in post-colonial societies; customs are exclusionary despite rights to equality and dignity.³⁴

Society resolves this through adjudication; courts cycle between deferral and enforcement, accommodating cultural autonomy and supremacy. Bangladesh is Exhibit A in debates over religious freedom and secularism. Initially, the prohibition was not to make religion a tool of politics (Article 12), but as majoritarian culturalism grew stronger, the terms were loosened. As the citizenry reinterprets law in times of conflict, social movements within constitutional culture create new meanings. To ensure that men do not rule us, cultural currents fill the river of justice, which cannot so easily interfere unless it does so with a history view.³⁵

In Bangladesh, family and religion-internalized gender norms supersede legal equality, while poverty and illiteracy exacerbate cultural resistance. Public support for the law's role as societal "cement" erodes when courts affirm rights while yielding to policy. The Indian cases show a transformative shift from tradition, with commands, to perception through education on legal universalism versus relativism from an interdisciplinary frame. Bangladesh's liberation-centric

³² <https://michiganlawreview.org/journal/a-theory-of-constitutional-norms/>

³³ <https://www.tandfonline.com/doi/abs/10.1080/01436597.2024.2368828>

³⁴ <https://cgt.columbia.edu/wp-content/uploads/2016/03/On-Europes-Functional-Constitutionalism.pdf>

³⁵ <https://icrrd.com/public/media/07122023075229-SME-in-Bangladesh.pdf>

Constitution is facing a serious crisis courtesy societal illiberalism, which places politics above civic duty³⁶.

This is a co-constitutive relationship: law fleshes out culture through precedent and rights schedules, while culture legitimates law (e.g., Bengali nationalism). Where laws ignore religious sensibilities, they engender coercive exclusions and failures. Community-driven, education-led, context-sensitive evolution reconciles the two evolutionary processes, sidestepping reaction against modernization such as gal. “s in madrasa enrollment. Ultimately, strong constitutionalism dictates that the rule of law become a cultural instrument and serve as an agent in promoting harmony in multicultural societies like Bangladesh.³⁷

2.4 Role of Institutions in Norm Internalization

In countries like Bangladesh, such institutional fragility perpetuates elite rule even when institutions serve to ground the internalization of norms by providing infrastructure for routine compliance. Whereas informal institutions (patronage networks) undermine constitutionalism, the constitution is reinforced by formal institutions (parliament and the judiciary) through checks and balances, leading to a hybrid form of governance. Institutional theory notes that legitimacy is gained through isomorphism, as Bangladeshi organisations mimic powerful actors both normatively and coercively under state pressure.³⁸

Similarly, the doctrine of basic structure insulates core values from encroachment, but politicization—political executive appointments—compromises independence and delays internalisation of values. Corrupted electoral bodies and a dysfunctional bureaucracy remain the norm, while flawed polls undermine democratic norms. The international trials model, which applies to domestic courts prosecuting violations to develop rule-of-law practices, shows how institutions socialize through demonstration.³⁹

Unlike Bangladesh's centralization, which allows abuses such as Article 70's party discipline, decentralized institutions promote ownership. Precedent, rights catalogues, and accountability are all functional constitutionalism standards for judges' performance that measure a court's effectiveness in wielding its institutional power - hardly present here. The exclusion is a factor in the development of mistrust, according to the reform commissions (2024–2025). Civic

³⁶ <https://constitutionnet.org.developmentzone.co/news/voices/agenda-and-dilemmas-constitutional-reform-bangladesh>

³⁷ <https://michiganlawreview.org/journal/a-theory-of-constitutional-norms/>

³⁸ <https://icrrd.com/public/media/07122023075229-SME-in-Bangladesh.pdf>

³⁹ <https://blog-iacl-aidc.org/2025-posts/2025/3/27/bangladeshs-constitutional-crossroads-reforms-exclusion-and-the-quest-for-democratic-legitimacy>

institutions that engage in contestation, including media and civil society, according to Wiener, amplify norms, but interest abridgment may hinder this process⁴⁰.

Institutional policy entrepreneurs not only diffuse standards (such as the SDGs), but also influence global agendas on poverty. Conservative backlash, however, demonstrates opposition. Internalization of behavioral norms through civic education and autonomy to break deviant cycles. In this way, they shift norms from accepted to culturally sensitive norms, which is crucial for Bangladesh's stability.⁴¹

2.5 Indicators of a Functional Constitutional Culture.

The visible manifestations of this removal to the source(s) are broad adherence to rule-of-law, autonomous organs and inclusive deliberation — if and when we observe such behaviour, we have functional constitutive culture. Crucial signs of development are the persistence of hierarchical norms and unchanged constitutions in determining struggles for power; here, Bangladesh is found lacking because 17 amendments have empowered people. But whereas in those stable systems judicial independence is upheld through precedent and the enforcement of rights, in Bangladesh it has been undermined by meddling from officials closely connected to the executive.⁴²

Citizen acceptance of reforms, or civic engagement, measures support whereas exclusion from Bangladeshi processes signals deficiencies. Unlike the patronage culture that constitutes Bangladesh, free media, executives who are held accountable and low corruption all signal deep-seated norms. As per the NLCM, norm contestation without erosion signals resilience; in Bangladesh we see regression in the form of dilutions of secularism.⁴³

Cultural embeddedness is evidenced by social indices like equality uptake and literacy in Bangladesh, which is relatively weak due to prejudices. Legislative opposition, constitutional minority rights and stable democracy without coups are low standards in comparison with the existing partisanship. It's commonly an empirical indicator, right: are there non-interference

⁴⁰ <https://constitutionnet.org.developmentzone.co/news/voices/agenda-and-dilemmas-constitutional-reform-bangladesh>

⁴¹ https://edi.opml.co.uk/wp-content/uploads/2022/03/Formal_Informal_Institutions_Development_Contexts_Resistance_Leverage.pdf

⁴² <https://cgt.columbia.edu/wp-content/uploads/2016/03/On-Europes-Functional-Constitutionalism.pdf>

⁴³ <https://www.cambridge.org/core/journals/global-constitutionalism/article/norm-internalisation-revisited-norm-contestation-and-the-life-of-norms-at-the-extreme-of-the-norm-cascade/BE007D475B0CD5EF70B97B477DEAA96F>

norms or non-interference sort of restraints like blue slips in the US. The unresolved Preamble promise is that a working culture is wealthy and peaceful.⁴⁴

Publications (proceedings, reports) Quality of governance thus serves as a useful measure for evaluating the level and progress of democracy in Nigeria. These indicators point to fragile constitutionalism and the need for institutional and cultural changes in Bangladesh.⁴⁵

⁴⁴ <http://bdlaws.minlaw.gov.bd/act-367.html>

⁴⁵ <http://www.asaub.edu.bd/asaubreview/data/v8n1sl17.pdf>

Chapter Three: Historical Development of Constitutionalism in Bangladesh

3.1 Colonial Legacy and Constitutional Practices

Those legal devices that emphasized imperial authority over indigenous self-rule in British colonialism to create structures of central power and repressive denial of democratic norms were the starting points for Bangladesh's constitutional journey. The concepts of federalism, provincial autonomy, and dyarchy was first introduced under the Government of India Act 1935, which served as a quasi-constitution for undivided India, including Bengal. It divided transferred subjects (such as education) from reserved subjects (such as finance); however, it maintained the viceregal veto and communal electorates in the 1909 Morley-Minto Reforms, which broke Muslim-Hindu solidarity. That inheritance has entrenched post-independence patterns of bureaucratic overreach, indirect elections, and executive dominance.⁴⁶

Colonial practices conditioned elite legalism: ordinances were enacted outside legislatures and legalized emergency powers, while judicial subordination was expressed through the Privy Council, as the final court of appeal. The second term of Fazlul Huq's Muslim League ministry in Bengal from 1937 to 1947 was a casebook study in patronage politics at the expense of the rule of law, marked by corruption scandals that eroded public confidence. The legacy of Pakistan's weak constitutionalism survived the 1947 Partition; despite the promise of autonomy in the Lahore Resolution (1940), the parity formula in Pakistan's 1956 Constitution was tilted toward West Pakistan and against a majority-populated East Bengal.⁴⁷

Cultural effects included the enactment of anglicised laws that often sparked societal clashes with traditional norms, leading to the legal alienation of some parts of the population. Dyarchy's lapse and the helplessness of provincial ministers, browbeaten by the governors, foreshadowed later executive-judiciary skirmishes in Bangladesh. After 71, the Awami League continued with a unitary order mimicking colonial centralism and shouted anti-colonial slogans in the Preamble of the 72 Constitution, promising sovereignty.⁴⁸

⁴⁶https://www.academia.edu/44922996/Constitutionalism_in_shaping_political_order_of_Bangladesh

⁴⁷ <http://bdlaws.minlaw.gov.bd/act-367.html>

⁴⁸

https://www.academia.edu/44922996/Constitutionalism_in_shaping_political_order_of_Bangladesh

Suboptimal federalism predilections, communalism through Article 2A (Islam as state religion, 1988), and ordinance culture (>1000 since 1972) are the long-term legacies of colonialism. Because Bengali nationalism reproduced authoritarian instruments even as it focused on colonial grievances, the theory of incomplete transfer points partwayhalfway. People continued to be tried and arrested under sedition laws (Section 124A IPC) and other pre-1947 models of stifling dissent. There are multiple reasons for this disruptive legacy of the founding period, chief amongst them the inability of elites to perceive constitutions as the supreme law rather than mere instruments, and, as such, a framework that kept people from internalising norms and led to deviations after independence.⁴⁹

Colonial designs facilitated the easy coalescence of power during the transition to independence, framing the imperative of a cultural break that was precluded by inherited structures.

3.2 Post-Independence Constitutional Evolution

The legal instruments that favored imperial control over indigenous self-rule during British colonialism also codified centralized authority and weakened democratic norms, from which Bangladesh's constitutional trajectory began. The Government of India Act 1935 also introduced federalism, provincial autonomy, and limited dyarchy for the provinces of British India, including Bengal. It created a division between transferred subjects (such as education and similar subjects) and reserved subjects (such as finance). However, the Morley-Minto Reforms of 1909 retained the viceregal veto and communal electorates, rupturing Muslim-Hindu unity. This legacy institutionalized post-independence features such as statism, indirect elections, and executive noggin-bashing.⁵⁰

Colonial practices forged elite jurisprudence: ordinances bypassed legislatures and sanctioned emergency powers, and as the supreme court, the Privy Council signified judicial subordination. Fazlul Huq's Muslim League ministry in Bengal (1937-1947) was a classic case of patronage politics superseding the rule of law, with corruption scandals severely denting public confidence. The fragile constitutionalism of Pakistan was inherited from the 1947 Partition, which, though promising autonomy in the Lahore Resolution (1940), ultimately yielded to parity in the 1956 Constitution, which presumptuously tilted power structures in favor of West Pakistan against an East Bengal majority.⁵¹

⁴⁹ <http://bdlaws.minlaw.gov.bd/act-367.html>

⁵⁰ <http://bdlaws.minlaw.gov.bd/act-367.html>

⁵¹ <https://www.dhakalawreview.org/blog/2014/11/constitutionalisminbangladesh-495>

Cultural effects included legislation such as the Indian Penal Code of 1860, which was seen as undermining India's native culture and led to widespread dissatisfaction with law enforcement. This dyarchy started as a disaster for the provinces, where it appeared that provincial ministers were unable to stop governors in their province." The breakdown of the system foreshadowed clashes between the executive and the judiciary in Bangladesh. Until 1971, the Awami League was a unitary party that represented a continuation of colonial centralism; its anti-colonial Preamble to the Constitution of 1972 and pledge of sovereignty , however, were different.⁵²

Weak instincts of federalism, communalism by Article 2A (Islam as state religion in 1988), and ordinance culture (of over a dozen after 1972) are the leftovers of colonial rule. Because Bengali nationalism reconstituted instruments of authoritarian rule while mobilizing colonial resentments, decolonization theory problematizes partial transfer. Sedition laws (Section 124A of the IPC) and the old pre-1947 traditions of stifling dissent remained. Since the elites viewed constitutions as a means to an end, not as fundamental law, this package made it easy for people to fail to internalize norms, reopening space post-independence for deviations.⁵³

Colonial designs enabled rapid resolution of power after the transition from colonial dependency to independence, emphasizing the need for a cultural break that was not achievable in a context where institutions were corruptly inherited.⁵⁴

3.3 Amendments and Their Impact on Constitutional Norms

The 17 constitutional amendments to Bangladesh that took place between 1973 and 2018 represent an excellent case of instrumentalism, in which the established principles of judicial review and limited government were manipulated for regime consolidation. By mutilating democracy through BAKSAL one-party rule, the Fourth Amendment (19 +5) trampled upon the supremacy of Article 7, paving the way for Mujib's presidency. Masdar Hossain and Anwar Hossain's extensions in 2009–2011 held that the Fifth (1979) and Seventh (1986) indemnified martial law infractions against accountability.⁵⁵

Secularism broke down in the eighth (1988), when Islam became the state religion; we did get a caretaker prime minister in the ninth (1989), but not for long. The Tenth/11th (1991) normatively established multipartyism, enabling the reinstatement of a parliamentary system after Ershad.

⁵² <https://constitutionnet.org/developmentzone.co/news/voices/agenda-and-dilemmas-constitutional-reform-bangladesh>

⁵³ <https://www.dhakalawreview.org/blog/2014/11/constitutionalism-in-bangladesh-495>

⁵⁴ https://www.academia.edu/44922996/Constitutionalism_in_shaping_political_order_of_Bangladesh

⁵⁵ https://en.wikipedia.org/wiki/Constitution_of_Bangladesh

13th (1996) formalized baby-sitters, which reduced election violence until 15th (2011) cancelled it for the LGE, why? Alleging it was a doctored version and that it led to an Article 7 breach. 16th (2014) was sanctimonious, since it protected Awami League amendments from being deemed a fundamental structure alteration⁵⁶.

Results: The post-1991 amendments removed the constitutional identity of socialist equality and embraced market liberalism, inspiring cynicism. Since only 3% of their MPs have ever cross-voted, Art 70's anti-defection provisions have been a strengthening factor for party whips and for controlling dissent. Norm erosion fell like dominoes: in Finnemore and Sikkink's explanation, constant modifications conveyed disposability, undermining internalization.⁵⁷

Undermining supremacy was the court's inconsistent response, defending some (like the 12th on Islam) while criticizing others. After 2024, that's where the calls for unchangeable fundamental principles (federalism, rights) come in, but elite exclusion is at risk of repeating itself. The BNP/AL duopoly amended the constitution at an average rate of 5 per year, compared to India's 2-decade average of 2 per year⁵⁸.

These post-constitutional changes were conducive to democratic backsliding, perpetuating Ilyashev's insidious "constitution without constitutionalism," in which text manipulation trumps cultural signifiers.⁵⁹

3.4 Militarization, Emergency Regimes, and Constitutional Deviations

Bangladesh's constitutionalism was steeped in militarisation, with emergencies 2007–08 and 2019 Article 141A and coups 1975 and 1982 putting regime security benchmarks on abeyance. Though judicially contested in the High Court, Zia's Proclamation of 1975 was finally "validated" by Fifth Amendment to constitution that revived its effect there, despite suspension of the part I and III, under martial law order declared there on over constitution. This was reflected in Ershad's 1982 system where more than 200 ordinances were followed up with amendments to further decentralize and Islamize the rule.⁶⁰

⁵⁶ <https://blog-iacl-aidc.org/2025-posts/2025/3/27/bangladeshs-constitutional-crossroads-reforms-exclusion-and-the-quest-for-democratic-legitimacy>

⁵⁷ <https://www.cambridge.org/core/books/abs/deciphering-the-genome-of-constitutionalism/constitutional-identity-in-bangladesh/CBFE83EB75269AA6066D68A009EAD2C9>

⁵⁸ <https://www.nlsir.com/post/bangladesh-at-a-constitutional-crossroads-reform-or-overhaul>

⁵⁹ <http://www.asaub.edu.bd/asaubreview/data/v8n1sl17.pdf>

⁶⁰ <https://www.dhakalawreview.org/blog/2014/11/constitutionalisminbangladesh-495>

The 13th Amendment put the CTG era (1991–2006) on suspension, but in 2007, the Fakhruddin Ahmed-led military-backed CTG declared emergency, suspended rights, censored media and modified elections — ironically allowing restoration of democracy in later 2008. Permanent rule became possible because of Article 141A emergencies, in 2007, 2015 and now in pursuance of the COVID-19 emergency (that is how we have reached indéfini land); in 2019, “public security” was cited to repress CAA-NRC protests.⁶¹

Irregular practices hardened praetorianism through slippages – for example, 'deep state' first-torpedoing political stability over the rule of law as in the 1/11 (2007) coalition. Laws empowering the suspension of habeas corpus lead to extra-judicial killings (more than 300 since 1975). Interim Yunus reforms, debating the depoliticization of army were introduced after Hasina was overthrown in 2024 crackdown.⁶²

In theory Huntington’s praetorian society makes some sense—civilians down on their luck acculturate to the military. Under dispute, deviations returned to cascade, retrogressed NLCM norms. The effects are impunity, civilian surrender and a complicit judiciary in the domino-act approval of coups.⁶³

Solution to this requires a civic oversight, professionalization and civilian supremacy[t] – all of which have long been absent. Militarization, therefore, has been the greatest constitutional failure for Bangladesh.⁶⁴

⁶¹ <https://bigd.bracu.ac.bd/wp-content/uploads/2024/08/The-State-of-Governance-in-Bangladesh-2006-Knowledge-Perceptions-Reality.pdf>

⁶² <https://www.dhakalawreview.org/blog/2014/11/constitutionalisminbangladesh-495>

⁶³ <https://www.nlsir.com/post/bangladesh-at-a-constitutional-crossroads-reform-or-overhaul>

⁶⁴ https://www.academia.edu/44922996/Constitutionalism_in_shaping_political_order_of_Bangladesh

Chapter Four: Institutional Actors and Constitutional Practice

4.1 The Legislature and Constitutional Accountability

As provided for in Part V of the Constitution, Jatiya Sangsad exercises legislative powers, including lawmaking and budget approval, as well as Government oversight through committees and questions (see below). But ruling majorities turn it into a rubber stamp; Sheikh Hasina's oppression of the opposition illustrates how Article 70 prevents MPs from crossing the aisle to work together, also suppressing debate and motions of no confidence. Vertical accountability to the electorate is weakened by FPTP distortions and dependence on hartal, creating unaccountable politics,, and horizontal accountability falters as executive-authored bills pass unchanged.⁶⁵

4.2 The Executive and Concentration of Power

Although Part IV grants the Prime Minister's Cabinet executive powers and accountability to Parliament, party discipline creates a "prime ministerial dictatorship" by controlling ministers and issuing orders in council. Ignoring constitutional spirit and institutional checks, post-1991 centralization — facilitated by emergency proclamations — demotes the President to a figurehead handpicked by the PM. While there is a point in time control of PMs over security and bureaucracy, patron-client networks have accelerated it further by weakening collective responsibility and creating authoritarianism (as evident in the extended Awami rule).⁶⁶

4.3 The Judiciary and Constitutional Interpretation

Division VI grants the Supreme Court powers of judicial review (Articles 7, 26, 44, 102). It invalidates amendments like the 5th, 7th, and 8th amendments, and even the amendment scrapping Article 13 for contradicting basic tenets of rights, secularism, and the independence of the judiciary. Ad hoc appointments, combined with inferior court subservience, frustrate originalist and purposive interpretations that would strike a reasonable middle ground between activism in the dominion of habeas corpus or election writs and deference to the executive power. Post-2024 crises in the shadow of political pressure show that the independence-is-courting-and-failing-to-enforce-a-norm pattern has been wearing down.⁶⁷

⁶⁵ <https://www.scribd.com/document/51455496/Shantanu-Majumder>

⁶⁶ <https://www.lawyersnjurists.com/article/separation-of-power-in-bangladesh/>

⁶⁷ <https://papers.ssrn.com/sol3/Delivery.cfm/5621970.pdf?abstractid=5621970&mirid=1>

4.4 Constitutional Bodies and Oversight Institutions

Part VIII tabled reports to Parliament and establishes specialist agencies - the Election Commission, Anti-Corruption Commission, Ombudsman, and Auditor-General - for scrutiny of elections, graft, and finances. Just like rigged opinion polls, uninvestigated scandals, partisan staffing and funding cuts,, and executive overreach render them toothless excuses for what an oversight failure truly is. Dynastic interference persists even as suggestions for reform, such as a National Constitutional Council to ensure neutral nominations, are made⁶⁸.

4.5 Role of the Military and Bureaucracy

With the armed forces split into party-based factions, who, although constitutionally subordinate to political power, remain liable to coups (1975, 2007), the military tends to function as an arbiter rather than a reliable defender of the system. As a result of favoritism to AL/BNP loyalists in terms of cadre quota, bureaucracy sustains policy consistency as well as enhances corruption and inefficiency by prioritizing elite capture over impartial implementation. This shirking of civilian control provisions is an illustration of the non-internalization of norms in domains where they are not elected.⁶⁹

⁶⁸ <https://verfassungsblog.de/reforming-the-legislature-in-bangladesh/>

⁶⁹ https://www.northsouth.edu/newassets/files/ppg-research/ppg-7th-batch/MuhammadArifSadeq_final_thesis.pdf

Chapter Five: Failure of Norm Internalization in Bangladesh.

Norm's Failure: The internalization story cracks under the strain of persistent failure to internalize norms; its deficiencies are attributed to institutional expediency, elite capture, and cultural variation in the years post-1971. It argues that, while such rhetoric is available to Bangladesh in its 1972 Constitution — with its proclamations of nationalism, socialism, democracy, and secularism — the pressures of clientelism, partisan pressure, and selective legality make it unruly in practice.⁷⁰

5.1 Gap Between Constitutional Text and Practice

This part of the Constitution maps out the chasm between the worlds of executive deprecations and constitutional doctrines like the separation of powers (Articles 55, 65), when Article 70 binds Parliament to discipline its MPs from any party or cackle noisily. Part III, "Electoral manipulations and security laws derailed rights," is metaphorical in the context of the coup-ridden, dynastic rulers.⁷¹

5.2 Political Culture and Patron-Clientelism

Politics is about patron-client networks; parties distribute jobs, contracts, and impunity through MPs, suffocating local elites and ignoring ideas and quality. Reliance on the ruling party's patronage in the countryside leads to vertical loyalty rather than horizontal citizenship, thereby buttressing corruption and undermining impersonal, rule-bound government.⁷²

5.3 Weak Rule of Law and Selective Enforcement

Leaders gain from law enforcement: elites evade anticorruption investigations, and police make arbitrary arrests of opponents. The interference and backlog in the courts — more than 3.8 million cases are pending — have killed impartiality, turning the rule of law into "rule by law" that only erodes public confidence in constitutional justice.⁷³

⁷⁰ <https://www.thedailystar.net/law-our-rights/law-vision/news/bangladeshs-constitutional-crossroads-the-imperative-new-charter-3945891>

⁷¹ <https://ijse.maldivesresearch.org/wp-content/uploads/2012/12/IJSE-MaldivesResearch-Khan-Elections-in-Bangladesh-IJSE-3rd-issue.pdf>

⁷² <https://en.prothomalo.com/opinion/op-ed/3jgdzbr5b6>

⁷³ <https://en.prothomalo.com/opinion/op-ed/3jgdzbr5b6>

5.4 Constitutional Amendments as Political Tools

The Constitution is five times weaponized by twenty-two amendments: the 4th for one-party rule, the 15th to eliminate caretaker elections that aid incumbents, and the 16th for limited judicial review. They are fiends who weaken the sanctity of the document because they would rather place partisan interests over consensus and rush all legislation through by simple majority and without debate.⁷⁴

5.5 Judicial Compliance and Resistance

The Supreme Court stumbles along, turning down the 5th, 7th, and 16th Amendments over fundamental structural imperfections while delaying executive abuses out of tenure, loud and loud appointment-quiete. Judge-made lower courts contribute to inequalities, indicating on-and-off resistance to demands for compliance.⁷⁵

5.6 Public Perception and Civic Disengagement

Perceptions of corruption and exclusion are the cause of low institutional trust; poverty and legal illiteracy impede rights claims, fostering indifference. Reform with little or no stakeholder input reduces public support for constitutionalism by reinforcing elite-driven processes.

To span norms and practices, the chapter calls for cultural shifts through integrative reforms and education.⁷⁶

⁷⁴ <https://pdfs.semanticscholar.org/a00f/743096214f991d5656d26c39ca09e31364ea.pdf>

⁷⁵ <https://today.thefinancialexpress.com.bd/features-analysis/reform-can-bangladeshs-judiciary-finally-break-free-of-executive-control-1752857266>

⁷⁶ <https://blog-iacl-aidc.org/2025-posts/2025/3/27/bangladeshs-constitutional-crossroads-reforms-exclusion-and-the-quest-for-democratic-legitimacy>

Chapter Six: Role of Political Parties, Civil Society, and Media

6.1 Political Parties and Democratic Norms

In Bangladesh, political parties violate the constitutional principles governing their democratic management in order to cling to power rather than practice internal democracy (Art 55–65). "The BNP (Bangladesh Nationalist Party) and AL (Awami League) both show 'realpolitik' in top-to-bottom hierarchies. The Zia/Khaleda legacy-laden BNP reflects AL's 2018 constitution, demanding loyalty to the central committee while dismissing grassroots input. The internal party elections are a joke; the women and youth quotas are abused as an instrument of patronage, and both score below 30% on their Party Democracy Index for inclusive democracy."⁷⁷

There are many such: Article 70 is for enforcing whip discipline and preventing MPs from opposing their leaders. In the recent 2014 elections, for instance, BNP's boycott under Khaleda ensured A.L.'s uncontested victory in 154 constituencies, resulting in some erosion of electoral practices. Post-2008, the 30% quota (for kin of freedom fighters) that A.L.'s regime introduced instead rewarded loyalists over merit and turned bureaucracy into a political playground. Hasina's ousting in the 2024 revolt was partly a result of disillusionment among young people with dynastic politics (Sheikh/Rahman family oversight), yet the temporary BNP romancing suggests sustained elitism. By prosecuting opponents through suits (say, Khaleda's graft conviction in 2018), svpolitics congratulates rivals on the "normalisation" of practices and behaviour, ensuring it does not reach down to cadres or voters and calcifying spirals of revenge, where vendettas are more important than policy differences.⁷⁸

6.2 Civil Society Organizations and Constitutional Awareness

Sometimes, civil society organizations (CSOs) raise awareness, but they are repressed and co-opted (disaggregate), and they can't really inculcate a culture of rights (Outro III). With a view to distributing candidates' affidavits in by-elections, pressuring the High Court for disclosures, and increasing voter literacy, organizations such as SHUJAN (established in 2006) mobilized in support of the 2008 caretaker reforms. BLAST and Ain o Salish Kendra invoke the fundamental structure doctrine in their PILs relating to disappearances.⁷⁹

That said, most CSOs are safe regarding financial dependencies: having self-censored on A.L. abuses since 2014 by prioritising NGO grants over advocacy. The disinterest of the urban elite in rural apathy hindered civil society organizing during the 2024 quota protests. There are many others, such as Odhikar's 2013 banning of "anti-state" reports on extrajudicial killings or the confusion during uprisings when civil society organisation (CSO) demands for reform are mistaken for threats to the junta. CSO elitism persists, and low constitutional literacy (less than

⁷⁷<https://bigd.bracu.ac.bd/wp-content/uploads/2022/03/Realpolitik-Democratic-Embeddedness-within-Major-Political-Parties-in-Bangladesh.pdf>

⁷⁸ https://en.wikipedia.org/wiki/Politics_of_Bangladesh

⁷⁹ <https://mcl.d.org/2009/10/09/role-of-civil-society/>

20% know their rights, according to studies) fails to address patron-client relationships or educate the masses on Article 44 enforcement.⁸⁰

6.3 Media, Free Expression, and Constitutional Values

The media serves as a mouthpiece and a watchdog, in turn watering down the values of transparency enshrined in Article 39, which provides for freedom of the press. Independent portals such as Netra News amplified the voices of 2024 students outside, and there was election rigging (ballot stuffing in over 100 seats) that Prothom Alo and The Daily Star exposed in 2018. The 2012 graft-on-Padma-Bridge reports were also considered investigative reports that upheld elements of accountability⁸¹.

Self-censorship, however, remains intact: DSA (2018, rescinded in 2024 but reincarnated through Cyber laws) jailed 1,500+ journalists by law (e.g., Shafiqul Islam's 2021 sedition for Hasina critique). Ownership ties, like those of Channel 24, which is linked to A.L., keep criticism in check; more than 50 outlets were closed in 2024 for "hate." The state advertisements, which account for 80% of the revenue, undermine public trust in constitutional free speech and coerce compliance by turning the media into echo chambers that naturally accept selective enforcement.⁸²

6.4 Suppression of Dissent and Its Impact on Norm Internalization

Repression serves as a cold shower on the adoption or enforcement of norms through legislation and/or violence, warning of the risks posed by dissent. Sections 25 and 28 of the ICT Act/DSA criminalized "propoganda" that tarnished the state's reputation, and were also used against quota protesters (400+ killed in 2024) and bloggers (Avijit Roy hacked in 2015). That move, according to reports, uses cross-border tactics to harass exiles' relatives.⁸³

Hefazat-e-Islam counter-mobilized the Shahbag protests for war crimes trials in 2013 (clashes in Dhaka left 60 people dead), and the state sided with the victims. Since 2009, over 2,000 cases of sedition have been slapped on the media and opposition — fear is a constant in which writers and academics self-censor (e.g., arrests for "anti-liberation" views in 2023). The internalization is weakened: citizens internalize silence over rights claims; survivalism by parties, CSOs, and the media sets in; and the hybrid regime persists, with constitutionalism being elite talk. Reform requires protecting CSOs and decriminalizing speech.⁸⁴

To help create a participatory constitution, the chapter encourages party democratisation and an enhanced role for independent CSOs and the media.⁸⁵

⁸⁰ <https://cgs-bd.com/article/24438/Our-Civil-Society-Needs-to-Do-More-to-Challenge-Power-Structures>

⁸¹ <https://www.freiheit.org/bangladesh/bangladeshs-digital-security-act>

⁸² <https://ti-bangladesh.org/articles/press-release/7175>

⁸³ <https://www.scirp.org/journal/paperinformation?paperid=132224>

⁸⁴ <https://jsis.washington.edu/news/national-and-transnational-digital-repression-in-bangladesh/>

⁸⁵ https://en.wikipedia.org/wiki/Politics_of_Bangladesh

Chapter Seven: Comparative Perspectives

7.1 Norm Internalization in Other South Asian States

The concept for this process of adopting and integrating a particular frame of norms or principles into the very Constitution and the daily functioning of a nation, I've chosen to call 'norm internalization.'" The Process of Internalization The process of norm internalization in South Asia has been uneven, with each country treading a distinct path according to its level of institutional building, legal legacies, and socio-political past. The experiences of Bangladesh, India, Pakistan, and Nepal in assimilating constitutional norms are compared in the next section. India: The '**Basic Structure Doctrine**' and Judicial Activism

India is exceptional in South Asia for its powerful judicial review and its successful adoption of constitutional doctrine, especially the fundamental structure doctrine. The so-called theory of basic structure was laid down by the Indian Supreme Court in **Kesavananda Bharati v. State of Kerala (1973)**,⁸⁶ which held that Parliament cannot alter specific provisions of the Indian Constitution. One of these is the federal and republican character of Government as an aspect of unity that should not be allowed to weaken. This theory has been instrumental in shaping the Indian Constitution, ensuring the protection of fundamental rights and the independence of the Judiciary from political interference.

The Indian legal system has not been free of problems, as was evident when Prime Minister **Indira Gandhi** suspended the fundamental right to freedom during the Emergency (1975–77). Yet the Judiciary did a commendable job of upholding the sanctity of the Constitution in cases like **Minerva Mills (1980)**,⁸⁷ where it struck down provisions of the **42nd Amendment** that reduced fundamental rights to "**luxuries**". In this case, the Court reaffirmed that judicial review is an essential part of the Constitution.

In India, the Public Interest Litigation (PIL) system allows interested parties to address grievances, even where those directly affected by an issue might add further layers of complexity to constitutional civic life. As evidenced in **Maneka Gandhi v. Union of India (1978)**,⁸⁸ PILs have broadened the scope of protection for fundamental rights, making it available to people rather than merely a matter of judicial procedure, while extending protections such as due process, which is an essential aspect of protecting human life.

Pakistan: Policy instability and the Doctrine of Necessity.

Pakistan, unlike India, has a troubled history of political instability and military usurpation of power. The landmark 1955 case of **Maulvi Tamizuddin Khan v. Governor-General**⁸⁹ led to the formulation and application of the "**doctrine of necessity**," under which military rule and martial law could be legitimised on the grounds of constitutional necessity. The Judiciary

⁸⁶ <https://vajiramandravi.com/upsc-exam/basic-structure/>

⁸⁷ <https://lawfullegal.in/minerva-mills-v-union-of-india-1980-2/>

⁸⁸ <https://www.onlinelawconnect.com/casecommentary/supremecourt/manekagandhivuo1978.php>

⁸⁹ https://en.wikipedia.org/wiki/Federation_of_Pakistan_v._Maulvi_Tamizuddin_Khan

deployed such a theory to legitimise military coups and decimate democratic rule, thereby establishing praetorianism that militarised political activity.

Pakistan's 18th Amendment (2010)⁹⁰ represented the country's constitutional reform, intended to reinforce parliamentary sovereignty and weaken the President's powers. Article 63A of the amendment sought to address the issue of political defection by following the idea behind Bangladesh's anti-defection law. The 2022 overthrow of the **Prime Minister Imran Khan regime**⁹¹, however, revealed an inherent instability in Pakistan's political order, and the amendment had the opposite effect. This incident was a reminder that positive norms of democracy are challenging to build in a country where the military's shadow is still all-pervasive.

Sri Lanka: Secularism & Ethical Gaps

Ethnic divisions in Sri Lanka and the conflict between the Tamil minority and its Sinhala counterpart have shaped how the country has dealt with internalizing its Constitution. In response to Tamil grievances, the **13th Amendment (1987)**⁹² conferred significant powers on provincial councils, established after the 1983 riots and the Tamil separatist insurgency. Sri Lanka has been trying to develop a greater sense of inclusiveness in its political system, but has been held back by ethnic polarisation, and the Government has not operationalized this amendment.

Sri Lanka's ongoing constitutional trauma has been epitomised by the short-lived **19th Amendment (2015)**⁹³, which sought to curb the executive presidency, primarily motivated by fears of a return to authoritarianism under former **president Mahinda Rajapaksa**. But the **20th Amendment (2020)**,⁹⁴ which conferred the President with significant new powers, eventually eclipsed this amendment when opposed by the political establishment, leading to a regression in Sri Lanka's constitutional history.

Yet another is the case of religious versus secular identity in Sri Lanka. Catholics were outraged when the Court imposed secularity on Catholic schools in the **Sisters of Saint Francis of Menzinger (Sri Lanka SC) case**.⁹⁵ This demonstrates the broader challenge of compromise in a multiethnic society between religious and ethnic identities and secular aspirations.

Nepal: Constitutional Reform and Federalism

Monarchy to **Federal Republic Nepal's**⁹⁶ journey from monarchy to federal republic constitutes a significant element of its constitutional history. To address the demands of the Maoist insurgency and subsequent movement for peace, however, the then 1990 Constitution was replaced by the current Constitution, which declares Nepal a secular state with an inclusive democratic federal republic system of Government. Federalism has not been fully implemented, and **Article 304** of the Constitution required that laws align with constitutional rights by 2018.

⁹⁰ <https://www.linkedin.com/pulse/understanding-pakistans-18th-amendment-hanif-ahmad-khan-hqdhf>

⁹¹ https://en.wikipedia.org/wiki/No-confidence_motion_against_Imran_Khan

⁹² <http://www.newsrilanka.net/constitution/13th-amendment-1987/>

⁹³ https://en.wikipedia.org/wiki/Nineteenth_Amendment_to_the_Constitution_of_Sri_Lanka

⁹⁴ https://en.wikipedia.org/wiki/Twentieth_Amendment_to_the_Constitution_of_Sri_Lanka

⁹⁵ <https://www.quimbee.com/cases/a-bill-titled-provincial-of-the-teaching-sisters-of-the-holy-cross-of-the-third-order-of-saint-francis-in-menzinger-of-sri-lanka-incorporation>

⁹⁶ <https://www.jurist.org/features/2023/01/11/explainer-nepals-rocky-road-to-federalism/>

Given its tradition of monarchy-led centralised governance, Nepal's experiment in federalism is unique – and implausible according to many. The Constitution recognises federalism as the fundamental organising principle, but there have been bureaucratic snags in setting up local governments and in apportioning power among the provinces. While the **First Amendment (2016)** did address questions of equity in citizenship, particularly among women and other marginalized groups, a promise remains unfulfilled, as far as federalism is concerned, for many citizens of Nepal.

Bangladesh Executive Defiance and the Hybridity of Constitutionalism

Bangladesh's political journey, which included the **1971 Liberation War** and the establishment of a newly formed democratic republic, has greatly influenced the country's constitutional evolution. However, the country's Constitution has been revised several times, and critics have seen some of these revisions as reducing democratic rights.

The Constitution (16th Amendment)⁹⁷ gave the Parliament the power to impeach judges, a change that was one of the most significant in Bangladesh's constitutional history. A case, **The Italian Marble Works Ltd. v. Bangladesh (2017)**,⁹⁸ challenged this clause. As a symbol of the executive's desire for mastery over the Judiciary, the amendment reflected the broader phenomenon of executive defiance within Bangladesh's constitutional structure.

Despite these constraints, Bangladesh has made commendable progress in introducing the concept of judicial review and protecting fundamental rights. The system of caretaker government, an ad hoc administration for holding elections, had been rendered unconstitutional by **Public Interest Litigations (PILs)** despite being scrapped by the **15th Amendment (2011)**.

⁹⁹This underscored the Judiciary's continuing responsibility to ensure that the executive branch is accountable for its actions.

7.2 Lessons from Successful Constitutional Cultures

Valuable lessons from the South African, Nepali, Sri Lankan, Colombian, and Indian experiences of constitutional development can be drawn about how this may be achieved successfully. The promotion of inclusive and stable constitutional cultures is premised on the following:

Primacy of Judiciary: The Indian example shows us how vital judicial review is for protecting constitutional values. The Judiciary should have been independent enough, even in politically turbulent times, to nullify unconstitutional amendments and preserve fundamental rights.

Inclusive Processes: Constitutions drawn up through inclusive processes, such as the post-apartheid transition in South Africa, are more likely to be stable and legitimate. The South

⁹⁷ <https://electionjudgments.org/en/entity/sjdpfilzr79/text-search?page=546&searchTerm=%22Bangladesh%22&file=1562612093550h0zbab25ybn.pdf>

⁹⁸ <https://www.scribd.com/document/747368145/Bangladesh-Italian-Marble-Works-Ltd-v-Government-of-Bangladesh-Wikipedia>

⁹⁹ <https://www.thedailystar.net/news/bangladesh/news/scrapping-caretaker-government-system-unconstitutional-hc-3778326>

African CODESA talks, which united many political and social sectors, contributed significantly to the transplantation of democratic principles into the new Constitution¹⁰⁰.

Meta-Institutions: Sound constitutions institute institutions that serve the common good and are above sectarian interests. Institutions of accountability and transparency that push back against political elites abusing their power include South Africa's Chapter 9 institutions, such as the Public Protector.¹⁰¹

Civic Literacy: The survival of constitutional democracy requires well-informed citizens. SHUJAN (Citizens for Good Governance) is a civil society campaign in Bangladesh that promotes transparency and citizen participation. Following in the footsteps of South Africa's Treatment Action Campaign, which proved to be a practical advocacy expression on behalf of people living with HIV (in all its diversity), there is more work to be done in terms of increasing public understanding and engagement.

7.3 Applicability of Comparative Models to Bangladesh

Bangladesh faces special challenges regarding institutional resilience and the over-centralization of executive power, which are somewhat similar to India's, with a basic structure doctrine and fundamental rights. It is difficult to fully institutionalise democratic norms in the country, as it has a hybrid constitutionalism that combines democratic elements with an authoritarian proclivity.¹⁰²¹⁰³

Bangladesh has much to learn from the experiences of other South Asian countries. Bangladesh may also be able to take a page from India's binder of judicial precedents and its commitment to keeping the basic structure of the Constitution intact without flagellating it to develop an independent judiciary. But replicating India's performance in this sector is challenging in Bangladesh due to its political realities, particularly the high centralisation of power around the executive.¹⁰⁴¹⁰⁵

Abdul Mannan Khan v. Bangladesh (2011)¹⁰⁶ provides a good example of the tussle over judicial intervention and the executive's resistance to reinstating the caretaker system in Bangladesh, which pitted them against one another. Political instability and clientelism:

¹⁰⁰ <https://fwdeklerk.org/the-south-african-constitutional-negotiations/>

¹⁰¹ <https://fwdeklerk.org/the-south-african-constitutional-negotiations/>

¹⁰² <https://www.tac.org.za/>

¹⁰³ <https://www.scirp.org/journal/paperinformation?paperid=136282>

¹⁰⁴ https://en.wikipedia.org/wiki/Colombian_Constitution_of_1991

¹⁰⁵ <https://today.thefinancialexpress.com.bd/features-analysis/reform-can-bangladeshs-judiciary-finally-break-free-of-executive-control-1752857266>

¹⁰⁶ https://en.wikipedia.org/wiki/Bangladesh_Italian_Marble_Works_Ltd._v._Government_of_Bangladesh

Bangladesh would have to confront political instability and the ills that derive therefrom, though India's model of judicial review and constitutional protection provides a sound foundation.¹⁰⁷ Bangladesh could reform its constitutional culture by borrowing from the South African model of a post-apartheid transition, including, for example, the establishment of independent commissions and processes that encourage public participation. In addition, if enforced reforms enhancing the accountability of the Prime Minister and expanding the room for dissent in legislative action were suitable for Bangladesh's democratic governance.¹⁰⁸

¹⁰⁷ <https://shishirmanir.com/review/judgment/abdul-mannan-khan-vs-government-of-bangladesh-and-others>

¹⁰⁸ <https://www.accord.org.za/ajcr-issues/public-participation-as-participatory-conflict-resolution/>

Conclusion

Summary of Findings

Focusing on the continuing gulf between constitutional text and practised governance, this article analysed the breakdown of constitutional culture and the internalisation of constitutional norms in Bangladesh. However, the objectives of democracy, nationalism, socialism, and secularism enshrined in the 1972 Constitution have been undermined by constitutional amendments and political machinations that have led to executive aggrandizement at the cost of democratic renewal. The failure to inculcate the ideals inherent in the Constitution is an integral part of this failure, for it has led to parliamentary inertia, judicial subservience, and executive excesses.

The following were identified as major contributing factors to the above discrepancy between plan and achievement:

Political Elite Capture and Patronage: The Awami League (AL) and Bangladesh Nationalist Party (BNP), in particular, systematically create a patronage-based culture in Bangladesh that undermines the constitutional promise of democracy and government accountability. The result has been a dynastic political culture that accretes power to an elite few, hollowing out democratic institutions and civic participation.

Institutional Weakness: Political interference has left the judiciary, which is supposed to be a guardian of the Constitution, weak and has eroded the concept of judicial independence. Like this, political misuse and executive domination have crippled other crucial constitutional agencies as well: the Election Commission and the Anti-Corruption Commission.

Cultural and Social Obstacles: Deeply ingrained political culture of clientelism, high levels of poverty, and illiteracy in Bangladesh have hindered the internalization of constitutional values. Constitutional values and political practices do not align due to the general public's apathy toward constitutional norms, the lack of civic education, and the persistence of a hierarchical society.

Constitutional Reforms for Political Survival: Profligate constitutional reforms, often guided as much by political pragmatism as by democratic principle, have eroded the moral authority of the document. Such amendments have been used to centralize power by eliminating the caretaker government setup and watering down justice review and other checks meant to reverse unconstitutional democratic practices.

Militarization and Emergency Rule: The regular imposition of emergency rule and the army's political interventionism have already undermined constitutionalism. These rule-of-law abuses have undermined the credibility of the constitutional framework, as they have established a

precedent for similar breaches of constitutional rules, notably during military-backed caretaker government rule (2007–2008) and the continued use of Article 141A.

Analysis of Research Questions

The study's research questions were: why Bangladesh has failed to internalize norms, and how this failure has led to violations of its nationalist Constitution. Several of the key insights identified represented findings from the analysis:

To what extent did political instability undermine the public's absorption of constitutional norms?

Political volatility ranging from military coups to one-party rule and the eroding of constitutional norms through political elite manipulation has dramatically contributed to retarded internalization of values such as parliamentary sovereignty and individual rights. The Constitution's 17 amendments and evolving nature have made it appear flimsy and inconsistent, inhibiting the development of a muscular constitutional culture.

How do weak political institutions, ineffective bureaucracy, and elite capture impede the conversion of constitutional text into responsible government?

Elitist dominance and the expropriation of key political and constitutional institutions have engendered clientelist and patronage politics in which party or personal gains - not the rule of law - largely determine governance. A meddling political insistence on bureaucracy has made it even harder to implement the constitutional principles effectively, further undermining democratic accountability.

Why have systems like the Caretaker Government and the judicial fundamental structure doctrine not enhanced obedience to norms?

The abuse/gaming of the judicial fundamental structure doctrine and the Caretaker Government system for political gain have led to their failure to encourage norm compliance. The 15th Amendment's decapitation of the Caretaker Government, in combination with the selective application of the fundamental structure doctrine, is an example of institutional failure to protect textual orthodoxies and democratic principles. The very basis of constitutionalism has also been eroded as these devices are casually undermined by political officers seeking to strengthen their hand.

Why does Bangladesh possess a "constitution without constitutionalism"?

The principal factors contributing to Bangladesh's "constitution without constitutionalism" are democratic institutional decay, elite manipulation, and political instability. Infested with corruption, constitutional norms not internalised, and power unaccountable to the people – in brief, a political survival manual rather than a manual for democratic governance.

Policy Recommendations

The findings yield some policy implications that can be used to promote constitutionalism in Bangladesh and mitigate non-compliance with the internalization of constitutional norms.

Reform of the Judiciary and Institutions: There must be a need to overhaul the judiciary, while preserving impediments to restoring judicial independence, and a political consensus to prosecute Weekly Summary and require new terms vigorously. The Presidency, Harare. These should include the independence of the judiciary, unbiased appointments, and the depoliticisation of the judiciary. Accountability and transparency also involve strengthening independent constitutional bodies, such as the Election Commission and the Anti-Corruption Commission.

Civic Education and Public Awareness: The Culture of Constitutionalism. To cultivate a culture of constitutionalism, there is a need for a national campaign to promote civic education and awareness towards the Constitution. One way to narrow the chasm between the Constitution's words and our public policy is to educate citizens about their rights (and responsibilities) under this framework, as well as the importance of democratic norms. Alongside this, there needs to be a fight against poverty and illiteracy, which continue to prevent the masses from realizing constitutional ideals.

Inclusive constitutional Reform: The reform process should involve significant contributions from various societal segments, political parties, and civil/fringe societies. The reforms should focus primarily on breaking up power, increasing participation, and strengthening the checks. The adoption of procedures to ensure that constitutional amendments are made for the long-term stability of the country, rather than for short-term political gains, is necessary.

Combatting Elite Capture and Patronage Politics: Systemic reforms in the political culture are needed to address elite capture. This involves promoting merit-based decision-making, curtailing the dominance of dynastic politics, and altering party structures to ensure internal democracy. One way to mitigate the harm would be to make politicians accountable, right down to the village level, and to curtail patron-client networks.

Reform Media and Civil Society Freedoms: The media and civil society are key to promoting constitutional values and democratic accountability. Preserving them free from state control and political persecution is key to keeping them independent. That means protecting journalists from threats and ensuring that civil society organizations can operate without fear of censorship or expropriation.

Contributions to Legal Scholarship

In the case of Bangladesh in particular, this research contributes to our understanding of:
1) constitutional culture; and 2) the absorption of constitutional norms. By focusing on the interplay between formal legal texts and actual practices in the composition of constitutional

culture, it builds on existing theories of constitutionalism. Looking at some specific political and constitutional problems in Bangladesh, the paper helps to understand better how (a) political instability, (b) elite play-gamesmanship, and (c) institutional fragilities can undermine the role of constitutional norms. It also offers a new perspective on the roles of institutional reform, judicial independence, and civic education in fostering a more robust constitutional culture.

The study also contributes to comparative constitutional studies by examining Bangladesh's constitutional development vis-à-vis other South Asian countries, such as India, Pakistan, and Sri Lanka. It offers thought-provoking advice to countries confronting similar challenges in adapting constitutionalism and improving democratic governance.

The paper argues that the findings underscore the necessity of constitutional reform to adopt a more comprehensive approach rather than selectively reforming provisions, and to highlight the gap between constitutional text and constitutional practice. This strategy should prioritize protecting everyone's fundamental rights and the internalization of democratic norms.

In sum, Bangladesh has failed to indigenize constitutional values; we see a mixture of democracy with various hues of autocracy. By addressing the institutional, cultural, and structural barriers to constitutionalism, Bangladesh can work towards a stronger, more vibrant democracy rooted in the 1972 Constitution. But to ensure that constitutional principles are not simply written on paper but embedded in society, it will require tremendous political will, civic mobilization, and institutional change.

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