



**Thesis topic: 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 Thesis paper in right time.

I would like to acknowledge my gratitude to my honorable teacher, Lecturer for permitting me to undertake this research.

Thanks to him for his most constructive suggestion and informative guidance through his lectures.

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, Morriom Akter Meem student ID:LLB2201025030 of LL.B program of Department of Law of Sonargaon University, do hereby declare that the thesis paper 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.

I also declare that the presented work do not breach any existing copyright and no portion of this thesis paper has been copied entirely from any work done earlier for a degree or otherwise.

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## Letter of Transmittal

To,

Md. Sagor Hossain

Lecturer

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Subject: For the submission of thesis paper 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 thesis paper 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 thesis is needed, I will remain available at your convenience.

Yours faithfully,

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Batch:25<sup>th</sup>

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## Abstract

This thesis looks at how the formal constitutional framework of Bangladesh and the reality of constitutional practice have consistently been at odds with Bangladesh since independence. Even though there was the adoption of a comprehensive written constitution in 1972 and many cases of judicial and political reform, political elites and state institutions have not fully subscribed to major constitutional ideas like the rule of law, separation of powers, the independence of judges, electoral competitiveness and the fundamental rights. The paper claims that the failure is not only due to bad legislative design, but also due to institutionalized political interests, the legacies of authoritarianism in the past, and a winner-takes-all approach to party politics, citing proposals of constitutional culture and norm internalization. The thesis utilizes both the doctrine analysis of constitutional documents and landmark adjudications, as well as the qualitative analysis of the secondary evidence collected through international evaluation of democracy and human rights. The article proves through a series of case studies that constitutional principles in Bangladesh have been more of hope than reality. The thesis ends with the suggestion of numerous reforms to the institutions and the society, which would help to internalize norms better and strengthen constitutional democracy.

**Keywords:** Bangladesh; constitutional culture; norm internalization; constitutionalism; rule of law; separation of powers; judicial independence; executive dominance; Article 70; caretaker government.



## **Chapter 1:**

# **Introduction**

Bangladesh presents a paradox, which has remained one of the unresolved puzzles of many constitutional scholars and political scientists. On the one hand, the nation possesses a detailed written constitution that proclaims devotions to democracy, rule of law, social justice and civil rights. Conversely, its history has been marred with consecutive constitutional failures, extended periods of dictatorship and a consistent oppression of constitutional principles to partisanship. The present study is of this consequence. <sup>1</sup>

The issue of non-deep internalization of constitutional norms in the political and institutional culture of Bangladesh is the central problem covered in this dissertation. Performance of norms has something to say about the conversion or transfer of legal and political utterances into assumed norms of behaviour. Without this kind of internalization, constitutional rules are easier to disregard, circumvent, or overturn at the will of those who are in authority. This thesis states that the instability has been more anthropomorphic and that it can not be attributed by flaws of legal design only. This should not be interpreted as alien but as an indication of a constitutional culture beneath constitutional behaviour where it is mannered not as a result of adhering to the constitution but because it is contextual. <sup>2</sup>

The analysis of the constitutional culture makes the focus on the formal texts of constitutions take a back seat to allow the informal practices, expectations, and incentives to influence behaviour of a constitution. The problem of constitutional instability in Bangladesh in postcolonial constitutional states should be perceived in the context of the constitutional culture and elite drive. The constitutional structure is a formal support of the principles concerning the constitutional instability, however, the reality of political institutions functioning does not follow these promises.

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<sup>1</sup> David Landau, 'Abusive Constitutionalism' (2013) 47 UC Davis Law Review 189.

<sup>2</sup> Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (Viking 2018) 20-25.

Meanwhile, it should also be mentioned that political actors understand the provisions of the constitution in an instrumental sense and do not take the consistency in the normativity of a long-term perspective, but rather favor the short-term partisan gain.<sup>3</sup>

Historical cumulative experiences of authoritarian leadership, low horizontal accountability, and a well-established patron-client system have supported this trend. Furthermore, lack of powerful punishments against infractions of the constitution has diminished the motivation of true internalization of the norms among the elites. A combination of these aspects justifies the continuation of constitutional fragility. The problem of constitutional instability in Bangladesh should be interpreted in the framework of constitutional culture and elite interests in the comparative constitutional scholarship. The constitutional structure is a formal support of the principles concerning the constitutional instability, however, the reality of political institutions functioning does not follow these promises.<sup>4</sup>

This has in the long run led to the political actors reading the provisions of the constitution in an instrumentalist manner which puts a focus on the short term partisan gain at the expense of the long-term normative stability. Historical cumulative experiences of authoritarian leadership, low horizontal accountability, and a well-established patron-client system have supported this trend. Furthermore, lack of powerful punishments against infractions of the constitution has diminished the motivation of true internalization of the norms among the elites. This trend highlights the main thesis of this paper.<sup>5</sup>

As long it has been noted by socio-legal analysts, the problem of constitutional instability in Bangladesh should be contextualized in terms of the constitutional culture and elite interests. The

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<sup>3</sup> Mark Tushnet, *Taking the Constitution Away from the Courts* (Princeton University Press 1999) 14-18.

<sup>4</sup> Constitution of the People's Republic of Bangladesh 1972, art 7.

<sup>5</sup> Constitution of the People's Republic of Bangladesh 1972, art 70.

constitutional structure is a formal support of the principles concerning the constitutional instability, however, the reality of political institutions functioning does not follow these promises. In its turn, this fact has predisposed the constitutional order to the interpretation of constitutional provisions in the instrumental manner, where the short-term partisan benefit is more important than the normative consistency in the long run. Historical cumulative experiences of authoritarian leadership, low horizontal accountability, and a well-established patron-client system have supported this trend. Furthermore, lack of powerful punishments against infractions of the constitution has diminished the motivation of true internalization of the norms among the elites. These events expose the constraints of strict constitutional reform.<sup>6</sup>

The problem of constitutional instability in Bangladesh in postcolonial constitutional states should be perceived in the context of the constitutional culture and elite drive. The constitutional structure is a formal support of the principles concerning the constitutional instability, however, the reality of political institutions functioning does not follow these promises. This has in the long run led to the political actors reading the provisions of the constitution in an instrumentalist manner which puts a focus on the short term partisan gain at the expense of the long-term normative stability. Historical cumulative experiences of authoritarian leadership, low horizontal accountability, and a well-established patron-client system have supported this trend. Furthermore, lack of powerful punishments against infractions of the constitution has diminished the motivation of true internalization of the norms among the elites. This trend highlights the main thesis of this paper.<sup>7</sup> The constitutional-theoretical approach to the problem of constitutional instability in Bangladesh should be seen in the prism of constitutional culture and elite incentives.

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<sup>6</sup> Constitution (Fourth Amendment) Act 1975 (Bangladesh).

<sup>7</sup> Constitution (Eighth Amendment) Act 1988 (Bangladesh).

term normative regularity.<sup>8</sup> Historical cumulative experiences of authoritarian leadership, low horizontal accountability, and a well-established patron-client system have supported this trend. Furthermore, lack of powerful punishments against infractions of the constitution has diminished the motivation of true internalization of the norms among the elites. These events expose the constraints of strict constitutional reform. The problem of constitutional instability in Bangladesh should be interpreted in the framework of constitutional culture and elite interests in the comparative constitutional scholarship.<sup>9</sup>

Furthermore, lack of powerful punishments against infractions of the constitution has diminished the motivation of true internalization of the norms among the elites. The effects on the democratic consolidation are deep.<sup>10</sup> As long it has been noted by socio-legal analysts, the problem of constitutional instability in Bangladesh should be contextualized in terms of the constitutional culture and elite interests. The constitutional structure is a formal support of the principles concerning the constitutional instability, That in the long run led to the political actors reading the provisions of the constitution in an instrumentalist manner which puts a focus on the short term partisan gain at the expense of the long-term normative stability. Historical cumulative experiences of authoritarian leadership, low horizontal accountability, and a well-established patron-client system have supported this trend. Furthermore, lack of powerful punishments against infractions of the constitution has diminished the motivation of true internalization of the norms among the elites. A combination of these aspects justifies the continuation of constitutional fragility.

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<sup>8</sup> Anwar Hossain Chowdhury v Bangladesh (1989) 41 DLR (AD) 165.

<sup>9</sup> Constitution (Thirteenth Amendment) Act 1996 (Bangladesh).

<sup>10</sup> Bangladesh Italian Marble Works Ltd v Government of Bangladesh (2010) 62 DLR (AD) 298.

## **Chapter 2:**

# **Constitutional Culture and Norm Internalization**

## 2.1 Introduction

This thesis argues that the gap between Bangladesh’s constitutional text and Bangladesh’s constitutional practice is best explained not only by formal legal defects, but by a deeper problem: a weak constitutional culture and a failure of norm internalization. A constitution can be elegantly drafted and judicially interpreted, yet still fail to guide everyday political behaviour if political actors, institutions, and citizens do not treat constitutional commitments as binding habits—as “how things are done” rather than as tactical tools.

In Bangladesh, the Constitution proclaims the supremacy of the Constitution, rule of law, fundamental rights, and democratic governance. But the repeated recurrence of constitutional crises—contested elections, centralisation of executive power, politicisation of accountability institutions, and cycles of constitutional amendment motivated by partisan survival—suggests that many constitutional norms remain external (invoked strategically) rather than internal (followed reflexively). This chapter builds the conceptual framework for that claim.

The chapter proceeds in five steps. First, it defines constitutional culture and identifies its core dimensions. Second, it explains norm internalization and distinguishes it from mere compliance. Third, it links constitutional culture to internalization through institutional and sociological mechanisms. Fourth, it identifies how to observe internalization empirically. Fifth, it previews how these concepts map onto Bangladesh’s constitutional experience and why Bangladesh’s pattern looks less like occasional “constitutional failure” and more like a recurring equilibrium of strategic constitutionalism.

## 2.2 Constitutional culture: meaning and scope

### 2.2.1 Defining constitutional culture

“Constitutional culture” refers to the ecosystem of **beliefs, expectations, practices, and interpretive habits** through which a society gives real-life meaning to its constitution. It includes how judges reason, how politicians treat restraints, how officials follow procedures, how media frame constitutional issues, and how citizens understand what the constitution is *for*. The key point is that constitutions do not operate only through courts and texts; they operate through shared understandings about legitimacy and limits.<sup>11</sup>

A helpful way to frame this is the idea of **democratic constitutionalism**, which emphasizes that constitutional meaning is formed through interaction among courts, political institutions, and the public—rather than through judicial interpretation alone.<sup>12</sup> Constitutional culture, in this view, is the *medium* through which constitutionalism becomes politically sustainable: it is what makes constitutional restraints feel normal and legitimate rather than optional.

This matters because constitutionalism—understood minimally as government limited by constitutional principle—requires more than formal separation of powers on paper. It requires practical and repeated enforcement of limits as a matter of routine.<sup>13</sup> When constitutional culture is thin, the constitution becomes “available” for selective citation, but weak as a lived constraint.

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<sup>11</sup> Robert C Post and Reva B Siegel, ‘Roe Rage: Democratic Constitutionalism and Backlash’ (2007) 42(2) *Harvard Civil Rights–Civil Liberties Law Review* 373.

<sup>12</sup> Robert C Post and Reva B Siegel, ‘Democratic Constitutionalism’ (Yale Law School Faculty Scholarship, 2007).

<sup>13</sup> Robert C Post, ‘Post-constitutionalism’ (1995) 34 *Stanford Law Review* (via JSTOR).



**Working definition (for this thesis):**

*Constitutional culture is the set of durable social and institutional expectations, interpretive practices, and behavioural conventions that shape how constitutional rules are understood, contested, and obeyed in everyday governance.*

**2.2.2 Dimensions of constitutional culture**

For analytical clarity, constitutional culture can be broken into at least four interacting dimensions:

**1. Elite constitutional culture**

This concerns how political leaders, senior civil servants, party elites, and security institutions treat constitutional rules: as binding obligations, or as obstacles to navigate. Elite constitutional culture is visible in how leaders respond to adverse court decisions, how they handle elections and transitions, and whether they accept limits when those limits impose real costs.

**2. Institutional constitutional culture**

This concerns how institutions embed constitutional norms into procedures. An institution has a stronger constitutional culture when it acts predictably according to constitutional role morality—eg, an election body acting independently even under pressure; a civil service applying rules evenly; a parliament that genuinely deliberates and scrutinizes.

**3. Legal constitutional culture**

This concerns the judiciary and legal profession: interpretive methods, independence norms, and compliance expectations. Legal culture includes whether constitutional litigation produces stable behavioural change or only symbolic judgments.

**4. Popular constitutional culture**

This concerns citizens' everyday expectations. Where popular constitutional culture is

strong, citizens treat constitutional violations as politically unacceptable and can mobilize (through media, elections, civil society, protest) to enforce accountability. Popular constitutionalism scholarship stresses that constitutional meaning and constitutional enforcement do not belong to judges alone; they depend on “active and ongoing” public engagement.<sup>14</sup>

These dimensions can reinforce each other—or undermine each other. A society may have sophisticated constitutional courts but weak political acceptance of constitutional restraints, producing a pattern of judicial declarations with limited real-world compliance.

## 2.3 Norm internalization: from compliance to habit

### 2.3.1 What is norm internalization?

A *norm* is a shared standard of appropriate behaviour. Internalization occurs when actors follow a norm **because it feels obligatory or natural**, not merely because of fear of sanctions. In international legal theory, internalization is often described as a process by which repeated interaction and interpretation convert legal rules into stable domestic practice.<sup>15</sup>

Two distinctions are critical:

- **Compliance vs internalization:**

A government may comply with a constitutional ruling to avoid a crisis, but still reject the underlying norm, waiting for a better moment to reverse it. Internalization implies deeper acceptance: even when the rule is inconvenient, actors treat it as binding.

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<sup>14</sup> Larry D Kramer, *The People Themselves: Popular Constitutionalism and Judicial Review* (OUP 2004).

<sup>15</sup> Reva B Siegel, ‘Popular Constitutionalism, Departmentalism, and Judicial Supremacy’ (2004) *California Law Review* (Yale Law School version).

- **Behavioural regularity vs normative commitment:**

Sometimes people behave “as if” they accept a norm, because reputation or political cost requires it. Internalization implies that the norm has become part of identity and role morality—“what a minister should do,” “what judges are for,” “what opposition parties deserve,” etc.<sup>16</sup>

This aligns with the “logic of appropriateness”: actors follow rules not solely based on consequences, but because those rules define legitimate role behaviour.<sup>17</sup> Internalization is a shift from “Will this help us win?” to “Is this legitimate for us to do?”

### *2.3.2 Stages and mechanisms of internalization*

Norm research often describes internalization as a staged process. For example, norms may move from emergence → cascade → internalization, where the final stage reflects taken-for-granted compliance.<sup>18</sup> This thesis uses that insight in a domestic constitutional context: constitutional norms also move from *formal articulation* to *contested practice* to either *stable internalization* or *persistent strategic avoidance*.

Mechanisms that push internalization include:

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<sup>16</sup> *Khondker Delwar Hossain v Bangladesh Italian Marble Works* (2010) 62 DLR (AD) 298 (Attorney General’s Office portal PDF).

<sup>17</sup> James G March and Johan P Olsen, ‘The Logic of Appropriateness’ (overview) *Encyclopaedia Britannica*.

<sup>18</sup> Thomas Risse, Stephen C Ropp and Kathryn Sikkink (eds), *The Power of Human Rights: International Norms and Domestic Change* (CUP 1999), intro chapter.

- **Socialization:** training, professional norms, peer expectations (eg, judges socialized into independence).
- **Institutional incentives:** design that makes compliance rational (eg, independent appointment systems, transparent budgeting).
- **Reputational and legitimacy pressures:** domestic or international costs for violations.
- **Repeated practice and precedent:** routines that make compliance automatic.

Mechanisms that block internalization include:

- **Winner-takes-all politics:** where losing power creates existential risk, pushing parties to treat constitutional rules as obstacles rather than shared commitments.
- **Patronage and politicized administration:** where loyalty beats legality.
- **Weak enforcement:** where violating norms has low cost.
- **Constitutional ambiguity exploited strategically:** where interpretive uncertainty becomes a political weapon.

#### 2.4 Constitutional culture as the “carrier” of internalization

Constitutional culture and norm internalization are analytically distinct but tightly linked.

Constitutional culture is the *environment* that makes internalization possible or unlikely. It supplies:

1. **Interpretive frames** (what the constitution means)
2. **Role expectations** (what office-holders should do)
3. **Enforcement expectations** (what happens if rules are broken)
4. **Legitimacy narratives** (why the constitution deserves obedience)

When constitutional culture is weak, constitutional norms remain at the level of **textual commitment** rather than **behavioural routine**.

A useful lens is the idea of constitutional meaning formed through continuing interaction among courts, political actors, and citizens. <sup>19</sup>Internalization fails when this interaction becomes *strategic and episodic*: constitutional language is deployed to win battles rather than to sustain a shared constitutional settlement.

## 2.5 Observing internalization in practice: indicators for this thesis

Because “internalization” is partly about motivation, it must be inferred from patterns. This thesis uses the following observable indicators:

1. **Costly compliance**

Do actors comply with constitutional rules even when compliance is politically costly?

2. **Cross-partisan consistency**

Do parties respect constitutional norms both when governing and when in opposition?

3. **Institutional routinization**

Are constitutional requirements embedded in stable procedures (appointments, budgeting, oversight)?

4. **Judicial follow-through and implementation**

Do constitutional judgments translate into administrative change? For instance, judicial independence reforms become real only if implemented through rules, budgets, postings, and promotions.

5. **Public expectation and contestation**

Do citizens and civil society treat constitutional violations as unacceptable, sustaining pressure for compliance?

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<sup>19</sup> Arif Rayhan, ‘Article 70 of the Bangladesh Constitution: A Critical Analysis of its Impact on the Rule of Law and Legislative Independence’ (2025) *Journal of National Law University Delhi* (PDF).

These indicators help distinguish **symbolic constitutionalism** (high rhetoric, low constraint) from **internalized constitutionalism** (moderate rhetoric, high constraint).

## 2.6 Bangladesh: why internalization is especially difficult

Bangladesh’s constitutional text contains strong commitments: supremacy of the Constitution, democratic governance, rule of law, and fundamental rights.<sup>20</sup> Yet several structural and historical conditions have made internalization unusually fragile.

### 2.6.1 Strategic constitutionalism and amendment politics

A hallmark of weak internalization is the treatment of constitutional norms as *reversible instruments*. Bangladesh’s history includes multiple constitutional amendments and regime changes in which constitutional arrangements were reorganized in ways closely linked to political survival rather than shared constitutional principle. Court decisions striking down constitutional changes—such as landmark cases on the basic structure doctrine and invalidation of martial-law validation—demonstrate that constitutional meaning is deeply contested rather than settled.<sup>21</sup>

### 2.6.2 Institutional imbalance and executive dominance

Internalization fails when the constitutional “referees” are weak or politicized. Even where courts articulate separation of powers principles—such as in **Secretary, Ministry of Finance v Masdar**

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<sup>20</sup> Constitution of the People’s Republic of Bangladesh, Preamble and arts 7, 11 (Ministry of Law, Justice and Parliamentary Affairs, Bangladesh Laws).

<sup>21</sup> *Khondker Delwar Hossain v Bangladesh Italian Marble Works* (2010) 62 DLR (AD) 298 (Attorney General’s Office portal PDF).

**Hossain**—the long struggle over implementation reveals how hard it is to convert doctrinal principle into institutional routine.

### *2.6.3 Party discipline and parliamentary weakness*

Article 70's anti-defection rule is frequently cited as a structural barrier to parliamentary deliberation and accountability because it penalizes MPs for voting against party lines.<sup>22</sup> Whatever its stabilizing rationale, its practical effect can reduce Parliament's capacity to act as an internal check, weakening the broader constitutional culture of accountability.

### *2.6.4 Discontinuous democratic experience and legitimacy fractures*

Norm internalization requires stable repetition over time: the norm becomes “normal” because it is continuously practiced. Bangladesh's repeated disruptions—especially periods of extra-constitutional governance later judicially repudiated—create discontinuity. The repudiation of martial law and validation clauses in landmark judgments is constitutionally significant, but it also underscores how far practice drifted from constitutional expectations.<sup>23</sup>

## **2.7 Conclusion: the chapter's analytical payoff**

This chapter has defined constitutional culture and norm internalization, clarified their relationship, and outlined indicators used throughout the thesis. The central idea is simple but powerful:

- **Constitutional text** is not self-executing.
- **Courts alone** cannot manufacture constitutionalism.

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<sup>22</sup> Constitution of the People's Republic of Bangladesh, art 70 (Bangladesh Laws).

- **Norm internalization** depends on a constitutional culture in which restraints become routine, costly compliance becomes normal, and constitutional fidelity becomes a basic political expectation.

In Bangladesh, the persistence of strategic constitutionalism—where constitutional arguments and institutions are often treated as tools of political competition—helps explain why constitutional norms repeatedly fail to become binding habits. The next chapters apply this framework to Bangladesh’s constitutional development, institutional design, and specific episodes of norm breakdown.



**Chapter 3:**  
**Methodology**

### 3.1 Introduction

This thesis investigates why Bangladesh’s constitutional order repeatedly fails to translate formal constitutional commitments into stable patterns of political behaviour. The core claim is that constitutional breakdowns in Bangladesh are not explained by “bad text” alone; rather, they reflect a **weak constitutional culture** and a **failed process of norm internalization**—meaning that key constitutional expectations (restraint, accountability, lawful administration, credible elections, independence of refereeing institutions) are often treated as strategic tools rather than binding obligations.

Methodologically, that kind of question is best answered through **qualitative, theory-guided analysis** that can trace *how* and *why* norms are (or are not) absorbed into institutional routines. For that reason, the thesis adopts a **qualitative, socio-legal case study design** combining (i) doctrinal legal research and (ii) within-case causal analysis (process tracing), supported by (iii) structured use of publicly available governance and democracy datasets for contextual triangulation. The overall approach follows established guidance on rigorous case study research, qualitative inquiry, and process tracing.<sup>24</sup>

### 3.2 Research design and approach

#### 3.2.1 Overall design: socio-legal, qualitative case study

This thesis uses Bangladesh as a **single-country, historically grounded case study** with multiple embedded sub-cases (constitutional episodes and institutional arenas). Case study design is appropriate where the research seeks to explain complex political-legal outcomes in their real-

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<sup>24</sup> Robert K Yin, *Case Study Research and Applications: Design and Methods* (6th edn, SAGE 2018).

world context and where causal processes are not easily separable from the environment in which they occur.<sup>25</sup>

The thesis is **socio-legal** in the sense that it treats constitutional law not only as doctrine but as a governing practice shaped by incentives, informal norms, organizational behaviour, and legitimacy contests. The constitution is studied as *law-in-action* rather than law-in-books.

### *3.2.2 Methodological orientation: interpretive + explanatory*

The thesis is both:

- **Interpretive**, because it examines the meanings actors attach to constitutional rules (eg, how “rule of law,” “democracy,” or “judicial independence” are framed and contested); and
- **Explanatory**, because it seeks to identify recurring mechanisms that block internalization (eg, winner-takes-all incentives, party discipline, politicized enforcement, institutional imbalance).

This is consistent with qualitative research design guidance that encourages matching method to question: where the goal is to understand processes, meanings, and mechanisms, qualitative approaches are often the most defensible.<sup>26</sup>

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<sup>25</sup> John W Creswell and Cheryl N Poth, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches* (4th edn, SAGE 2018).

<sup>26</sup> John W Creswell and Cheryl N Poth, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches* (4th edn, SAGE 2018).

### 3.3 Research questions and analytic framework

#### 3.3.1 Primary research question

**Why have key constitutional norms in Bangladesh failed to become internalized as stable behavioural expectations among political elites and state institutions?**

#### 3.3.2 Secondary research questions

1. How has Bangladesh's constitutional culture evolved across major political periods?
2. Which constitutional norms show repeated "strategic compliance" rather than internalized adherence?
3. What institutional and political mechanisms explain recurring failures (eg, executive dominance, weak horizontal accountability, party discipline)?
4. What types of reforms are likely to strengthen internalization (design, enforcement, and civic expectation-building)?

#### 3.3.3 Conceptual framework: *constitutional culture* → *internalization mechanisms* → *outcomes*

The thesis operationalizes a simple causal logic:

- **Constitutional culture** (elite, institutional, legal, popular) shapes whether constitutional norms are treated as binding;
- **Internalization mechanisms** (socialization, incentives, enforcement expectations, reputational cost) determine whether norms become habitual;
- **Outcomes** include either stable constitutional compliance (routine restraint) or recurring breakdown (selective legality and crisis governance).

This framework is tested through within-case evidence (episodes, judgments, amendments, institutional practice) and triangulated with external indicators.

### 3.4 Methods of data collection

The thesis relies on **documentary and archival sources** rather than fieldwork-based primary data collection. This choice is deliberate: (i) constitutional conflict and elite incentives can be observed through public institutional records and credible secondary sources; (ii) documentary material allows transparency and replicability; and (iii) ethical and safety constraints around elite interviews in highly polarized environments can be avoided without weakening the study's core claims.

#### 3.4.1 Primary legal sources

##### 1. **Constitutional text and amendments**

The thesis tracks the evolution of constitutional structure and the formal articulation of key norms over time.

##### 2. **Judicial decisions (Supreme Court of Bangladesh)**

The thesis uses constitutional cases for two purposes:

- to identify the *official* doctrinal content of norms (what the constitution is said to require); and
- to evaluate whether doctrine produced sustained behavioural change (implementation and compliance patterns).

##### 3. **Formal institutional documents and rules**

Where accessible, the thesis uses election-related rules, administrative regulations, and institutional guidelines that illuminate how constitutional duties are operationalized.

### 3.4.2 Secondary sources

- Peer-reviewed scholarship on Bangladesh’s political development, constitutional history, and institutions.
- Comparative constitutional theory (constitutionalism, separation of powers, judicial role morality).
- High-quality reports from credible international organizations and rights/governance monitors, used *carefully* and mainly for background trends.

### 3.4.3 Contextual datasets for triangulation (not as the main evidence)

This thesis does **not** claim to run a large-N statistical model. However, it uses selected indices and country-year indicators to triangulate patterns (eg, whether periods identified as norm breakdown coincide with drops in rule-of-law or democratic accountability measures). The thesis therefore draws on:

- **V-Dem (Varieties of Democracy)**, which aggregates expert-coded judgments on difficult-to-observe political features and publishes methodology and uncertainty guidance.<sup>27</sup>
- **Worldwide Governance Indicators (WGI)**, a composite of multiple perception-based sources measuring rule of law, voice/accountability, and control of corruption.<sup>28</sup>
- **Freedom House, Freedom in the World**, which provides structured country ratings with published scoring methodology.<sup>29</sup>

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<sup>27</sup> V-Dem Institute, ‘V-Dem Methodology’ (project methodology page).

<sup>28</sup> World Bank, ‘Worldwide Governance Indicators’ (project page).

<sup>29</sup> Freedom House, *Freedom in the World 2025: Methodology Questions* (Freedom House methodology PDF).

- **Transparency International, CPI methodology**, which describes its composite construction and comparability assumptions.<sup>30</sup>
- **International IDEA Global State of Democracy (GSoD) Indices**, which sets out a conceptualization and measurement framework relevant to democratic performance.<sup>31</sup>

These sources are treated as **supporting evidence**—useful for pattern-checking and contextualization, but not substitutes for legal and institutional analysis.

### 3.5 Methods of analysis

#### 3.5.1 Doctrinal legal analysis

The thesis uses **doctrinal legal research** to determine what constitutional norms *are* within the legal system—how they are formulated in constitutional text, interpreted by courts, and developed in legal reasoning. Doctrinal research is a distinct method in legal scholarship focused on identifying, systematizing, and evaluating legal principles from authoritative sources.<sup>32</sup>

Doctrinal analysis in this thesis includes:

- mapping relevant constitutional provisions to institutional roles;
- identifying the Supreme Court’s approach to separation of powers, independence, and constitutional supremacy;

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<sup>30</sup> Transparency International, *Corruption Perceptions Index: Technical Methodology Note* (TI methodology PDF).

<sup>31</sup> International IDEA, *The Global State of Democracy Indices Methodology: Conceptualization and Measurement Framework* (Version 8, 2024).

<sup>32</sup> Terry Hutchinson and Nigel Duncan, ‘Defining and Describing What We Do: Doctrinal Legal Research’ (2012) 17(1) *Deakin Law Review* 83.

- analyzing recurring interpretive tensions (eg, formal textualism vs structural reasoning);  
and
- assessing the extent to which doctrine is translated into enforceable standards.

### *3.5.2 Within-case analysis and process tracing*

To explain *why* internalization fails, doctrinal analysis alone is insufficient. Courts may declare norms while politics continues to violate them. Therefore, the thesis applies **process tracing**—a within-case method that evaluates causal mechanisms by examining sequences of events and intermediate steps linking cause and outcome.

Process tracing is used in this thesis to:

- reconstruct episodes of constitutional conflict (eg, election governance disputes, amendment politics, compliance struggles around judicial independence);
- identify key actors, incentives, and institutional constraints;
- evaluate alternative explanations (eg, leadership personalities vs structural incentives); and
- show recurring “pathways” of norm erosion (eg, constitutional ambiguity → partisan interpretation → selective enforcement → normalization of breach).

This approach aligns with established guidance on theory-building through case studies and within-case causal inference.<sup>33</sup>

### *3.5.3 Structured qualitative content analysis*

Where appropriate, the thesis also applies **qualitative content analysis** to:

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<sup>33</sup> Alexander L George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (MIT Press 2005).



- judicial reasoning (how courts justify constraints or defer to power);
- amendment justifications and political narratives about legitimacy; and
- public constitutional discourse in credible secondary sources.

The aim is not mechanical counting but systematic interpretation of recurring frames (eg, “stability,” “sovereignty,” “popular mandate,” “national security”) used to rationalize deviation from constitutional restraint. The method follows standard guidance on content analysis as a tool for analyzing communications and meaning-making in social life.<sup>34</sup>

#### *3.5.4 Rigor and inference standards*

To avoid the common critique that qualitative legal research is “illustrative” rather than inferential, the thesis adopts standard inference safeguards:

- **Triangulation** (law + institutional record + scholarly analysis + contextual indicators);
- **Alternative explanation testing** (eg, crises explained purely by leadership, or purely by colonial institutional legacy);
- **Transparency of case selection;** and
- **Clear claims discipline** (distinguishing what is evidenced from what is interpretive judgment).

These steps reflect broader methodological guidance for reliable inference in empirical legal scholarship, including qualitative inference.<sup>35</sup>

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<sup>34</sup> Klaus Krippendorff, *Content Analysis: An Introduction to Its Methodology* (4th edn, SAGE 2018).

<sup>35</sup> University of Chicago Unbound, ‘The Rules of Inference’ (hosted article page).

### 3.6 Case selection strategy

The thesis uses **purposeful case selection**: it focuses on constitutional episodes and institutional arenas where the internalization of norms should be most visible and most politically consequential. Rather than sampling many small events, it selects high-stakes arenas that act as “stress tests” for constitutional culture.

#### **Selection criteria:**

1. **Constitutional salience** (involves core norms like elections, separation of powers, rights, accountability).
2. **Conflict intensity** (political stakes high enough that strategic behaviour is likely).
3. **Institutional visibility** (adequate documentary record exists).
4. **Explanatory leverage** (episodes likely reveal mechanisms that generalize across time).

This yields embedded sub-cases such as: election governance disputes, amendment episodes, and institutional conflicts over judicial autonomy and administrative neutrality (treated in later chapters).

### 3.7 Operationalization of key concepts

#### *3.7.1 Operationalizing “constitutional culture”*

Constitutional culture is operationalized through observable practices and expectations across four domains:

- **Elite domain:** reactions to adverse legal constraints; cross-party acceptance of rules; willingness to transfer power fairly.

- **Institutional domain:** routinization of constitutional procedures; autonomy of oversight bodies; predictability of decision-making.
- **Legal domain:** judicial reasoning styles, follow-through mechanisms, compliance patterns.
- **Popular domain:** civil society response to violations; public legitimacy narratives; constitutional awareness in public discourse.

### 3.7.2 Operationalizing “norm internalization”

Norm internalization is inferred using behavioural indicators that go beyond convenient compliance:

1. **Costly compliance:** actors comply even when it harms short-term political interest.
2. **Consistency across roles:** the same party respects the norm both in office and in opposition.
3. **Institutional routinization:** procedures embed the norm so it becomes automatic.
4. **Implementation depth:** court pronouncements produce administrative and behavioural change.
5. **Stigma of breach:** violations impose reputational or political cost.

These indicators structure later chapters’ evaluation of whether Bangladesh’s constitutional norms operate as *internalized constraints* or as *strategic rhetoric*.

### 3.8 Validity, reliability, and limitations

#### 3.8.1 Internal validity (causal credibility)

Causal claims are strengthened by:

- sequencing evidence (before/after patterns);
- identifying intermediate steps (mechanisms) rather than asserting direct causation; and
- comparing episodes that differ in key conditions (eg, institutional strength, enforcement capacity).

Process tracing is specifically chosen because it is designed to improve causal inference in within-case qualitative research.

#### 3.8.2 Reliability and transparency

Reliability is supported by:

- using public documents where possible;
- clearly identifying sources;
- avoiding unverifiable claims about private motivations; and
- using dataset methodologies that publish coding and aggregation standards (V-Dem, WGI, Freedom House, TI CPI, IDEA)

#### 3.8.3 Limitations

This design has limitations:

- It cannot fully observe private bargaining and off-record coercion.
- Some institutional records may be inaccessible or incomplete.

- Governance indices are perception-based and imperfect; the thesis uses them cautiously as context, not as proof of specific legal claims.<sup>36</sup>

However, these limitations do not undermine the central objective: identifying robust, recurring mechanisms linking political competition and institutional design to the weak internalization of constitutional norms.

### 3.9 Ethical considerations

Because the thesis relies on documentary sources and publicly available materials, it does not involve human subjects research such as interviews, surveys, or experiments. The ethical approach is therefore centered on:

- fair characterization of sources;
- careful distinction between evidence and inference; and
- avoiding defamatory claims by anchoring controversial assertions to documented events, rulings, or credible reporting.

### 3.10 Conclusion

This chapter has set out a methodology tailored to the thesis’s central puzzle: why constitutional norms in Bangladesh often fail to become *internalized*. The chosen approach—**qualitative socio-legal case study**, combining **doctrinal analysis**, **process tracing**, and **structured content analysis**, with **dataset triangulation**—is designed to explain mechanisms rather than merely describe outcomes. The next chapter applies this methodological framework to Bangladesh’s

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<sup>36</sup> Transparency International, *Corruption Perceptions Index: Technical Methodology Note* (TI methodology PDF).

constitutional development and institutional structure, building toward case-based explanations of recurring norm failure.

## **Chapter 4:**

# **Historical Development of the Bangladeshi Constitution**

#### 4.1 From liberation to a “foundational” constitutional order (1971–1972)

Bangladesh constitutional history pre-dates the text itself, though the legal tools that sought to transform a liberation struggle into a state. The 1971 Proclamation of Independence (Mujibnagar) is commonly regarded as the legal charter of the new republic, which offered an interim constitutional foundation and sanctioned the rule in the time of war.<sup>37</sup> This framework was superseded in the immediate post-war transition by the Provisional Constitution of Bangladesh Order, 1972, which formally re-aligned the state to a parliamentary democracy and declared the elected representatives of the 1970-71 Pakistan elections as the Constituent Assembly.<sup>38</sup>

The argument is not merely chronological. These primitive instruments influenced subsequent constitutional culture in two persisting ways:

1. they made normal the concept of constitutional life beginning with extraordinary political events (war, proclamation, order), and
2. they incorporated a strain between popular sovereignty (the liberation mandate of the people) and executive requirement (state-building at a pace of crisis). This stress is recurrent in subsequent constitutional failures and reconstructions.

#### 4.2 The 1972 Constitution: aspirations and structure

Bangladesh adopted its Constitution on **4 November 1972**, and it came into effect on **16 December 1972**.<sup>39</sup> The constitutional text self-consciously presents itself as a republican, democratic project

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<sup>37</sup> Proclamation of Independence (Mujibnagar), 10 April 1971 (text reproduced in *Proclamation 1971* (PDF)).

<sup>38</sup> *Provisional Constitution of Bangladesh Order, 1972* (Legislative and Parliamentary Affairs Division PDF).

<sup>39</sup> *The Constitution of the People’s Republic of Bangladesh* (Preamble) (Bangladesh Laws).



grounded in the liberation struggle and committed to the four foundational ideals—**nationalism, socialism, democracy and secularism**—as organising principles of the new state.<sup>40</sup>

Institutionally, the 1972 Constitution created a parliamentary form of government, fundamental rights, and a Supreme Court with judicial review powers—aiming to replace colonial-administrative governance with a rights-oriented constitutional state.<sup>41</sup> Yet the early years also reveal how fragile this settlement was. The constitutional design presumed political self-restraint, functioning parties, and institutional loyalty to constitutional supremacy—assumptions that later crises exposed as thinly internalised.

### 4.3 Early amendments: security logic and the expansion of emergency power (1973–1974)

The Constitution was amended within a year in such a manner that it showed the increasing significance of state security and regime protection. In 1973, the Second Amendment (1973) added a special body of emergency provisions (Articles 141A-141C), allowing the suspension or limitation of rights in proclaimed emergencies.<sup>42</sup> The legal history is relevant here: the initial text of 1972 did not include a comprehensive emergency architecture as inherited by emergency governance of the 1970s Pakistan, but Bangladesh still took on a strong emergency structure in the near future.<sup>43</sup>

These initial amendments marked a major constitutional-cultural shift: constitutionalism would not be chiefly developed by means of participatory democratic practices alone, but also by

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<sup>40</sup> *The Constitution of the People's Republic of Bangladesh* (Preamble) (Bangladesh Laws).

<sup>41</sup> *The Constitution of the People's Republic of Bangladesh* (Bangladesh Laws)

<sup>42</sup> *The Constitution of the People's Republic of Bangladesh* art 141A note (Bangladesh Laws).

<sup>43</sup> 'Emergency provisions in Bangladesh constitution' (The Daily Star).

exceptionalism, legal practices of crisis rule. When such a form of governance becomes a regular practice, it is likely to undermine internalisation of constitutional norms among political elites.

#### 4.4 The Fourth Amendment (1975): the “Second Revolution” and constitutional rupture

The turning point of the early constitutional development was the Fourth Amendment (25 January 1975) which essentially changed the constitutional framework of Bangladesh. The reform brought about a presidential form, reduced political pluralism, and led to one-party dominance linked to the establishment of BAKSAL.<sup>44</sup> Banglapedia summarises its effect starkly: parliamentary powers were curtailed and judicial independence was significantly weakened.<sup>45</sup>

This period demonstrates how constitutional text can be rapidly transformed when political culture treats constitutions as **instruments of political settlement** rather than binding limits. Whether one interprets the Fourth Amendment as a response to instability or as authoritarian consolidation, its legacy is clear: it provided a precedent that constitutional fundamentals were politically reversible.

#### 4.5 Assassination, coups, and the “martial law constitution” (1975–1990)

Following the assassination of Sheikh Mujibur Rahman on 15 August 1975 and the series of coups and counter-coups, Bangladesh entered a phase of constitutional suspension, re-writing, or subordination to martial law declarations. This period was later tried to be legalised by the Fifth Amendment (1979) which legalised amendments and measures taken under martial law between

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<sup>44</sup> Bangladesh Krishak Sramik Awami League’ (Banglapedia) (noting Fourth Amendment link to BAKSAL).

<sup>45</sup> Constitutional Amendments’ (Banglapedia) (Fourth Amendment summary).

1975 and 1979.<sup>46</sup> A similar pattern occurred under the Ershad regime: martial law (from 1982) and its legal instruments were later shielded through the **Seventh Amendment (1986)**, which sought to ratify martial law proclamations and related orders.<sup>47</sup> Contemporary reporting at the time noted the political controversy and opposition response to this legal validation strategy.<sup>48</sup>

What comes out of these episodes is a constitutional practice of producing legality post facto: regimes initially rule by exception, and subsequently attempt to amend their constitutions in order to retrospectively legitimize that exceptional rule. This is a highly corrosive practice of internalising norms since it educates political actors that constitutional restraints are merely inconvenient, but not binding.

#### 4.6 The Eighth Amendment (1988) and the growth of “basic structure” review

A second significant constitutional landmark is the Eighth Amendment (1988) because it proclaimed Islam the state religion (Article 2A) and also linked to litigation that reinforced judicial doctrines restricting the amendment authority. The wider constitutional meaning is associated with the Anwar Hossain Chowdhury case (also known as the Eighth Amendment Case), in which the Supreme Court established a Bangladeshi variant of the basic structure doctrine, which considered some constitutional fundamentals (including judicial independence) to be beyond the scope of the ordinary amendment. This matters to constitutional development in Bangladesh because it produced a counter-tradition: even as political regimes normalised amendment-as-control, courts articulated the idea that constitutional identity is not wholly available for political bargaining. That

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<sup>46</sup> ‘The Fifth Amendment’ (ICS Forum) (describing validation of martial law actions and passage of Fifth Amendment).

<sup>47</sup> *Siddique Ahmed v Bangladesh* (Writ Petition No 696 of 2010) (High Court Division judgment PDF, challenging Seventh Amendment validation).

<sup>48</sup> ‘Ershad lifts martial law in Bangladesh’ (UPI Archives, 10 November 1986).

tension—between political supremacy and constitutional supremacy—becomes a central driver of later constitutional conflicts.

#### **4.7 1990 mass uprising and the return to parliamentary government (Twelfth Amendment, 1991)**

The downfall of Ershad in 1990 ushered in a shift towards electoral constitutionalism. Parliamentary government was reinstated in the Twelfth Amendment (1991): the Prime Minister was made the head of the executive, and the President was made the head of the constitution..<sup>49</sup> Politically, the Twelfth Amendment was important as it tried to recreate the 1972 parliamentary settlement following years of presidentialised and militarised constitutional government. However, the post-1991 experience also proved that institutional form is not a sufficient guarantee of constitutional stability. Parliamentary restoration did not necessarily provide parliamentary culture: confrontation, boycotts, and winner-takes-all politics still influenced the practice and interpretation of constitutional rules.

#### **4.8 The caretaker government experiment (Thirteenth Amendment, 1996)**

The Thirteenth Amendment (1996) introduced the caretaker government model in Bangladesh with a special constitutional chapter of a Non-Party Caretaker Government to preside over elections. Banglapedia defines caretaker governments as a result of high levels of political conflict and mistrust, and as a constitutional innovation aimed at achieving credible elections where party politics had become too polarised to allow electoral legitimacy.<sup>50</sup>

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<sup>49</sup> Constitution (Twelfth Amendment) Act, 1991 (Legislative and Parliamentary Affairs Division PDF).

<sup>50</sup> ‘Caretaker Government’ (Banglapedia) (origins and rationale of caretaker model).

This was a constitutional anomaly: rather than using reinforced election administration in the normal government, the Constitution temporarily supplanted partisan executive authority at election times. In practice, the model assumed a political culture that was ready to recognize institutional neutrality as valid- a presumption that would fail later in the face of rivalry over who owns the referee.

#### 4.9 Judicial contestation, emergency politics, and constitutional instability (2007–2011)

The late 2000s intensified the struggle over constitutional meaning, as Bangladesh experienced severe political crisis leading into the 2007–08 period and its emergency governance. In the same broad era, the Supreme Court began striking at the legitimacy of earlier martial law validation strategies.

In **Khondker Delwar Hossain v Bangladesh Italian Marble Works** (the “Fifth Amendment Case”), the Appellate Division declared the Fifth Amendment unconstitutional and forcefully rejected the idea that martial law could be constitutionalised through retrospective validation. The judgment is often understood as a constitutional “reset” effort: an attempt to restore the principle that extra-constitutional seizures of power cannot be laundered into legality simply by later parliamentary action.<sup>51</sup>

Separately, the judiciary also confronted the **Seventh Amendment** validation framework in litigation challenging Ershad-era martial law instruments.<sup>52</sup> Taken together, these cases

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<sup>51</sup> *Khondker Delwar Hossain v Bangladesh Italian Marble Works* (judgment PDF excerpted/hosted by The Daily Star archive).

<sup>52</sup> *Siddique Ahmed v Bangladesh* (Writ Petition No 696 of 2010) (High Court Division judgment PDF).

strengthened constitutional supremacy in doctrine—but they also sharpened political incentives to use amendments and legislative tools to manage judicial constraints.

#### 4.10 The Fifteenth Amendment (2011) and the caretaker abolition controversy

The **Constitution (Fifteenth Amendment) Act, 2011** introduced extensive changes and is pivotal to modern constitutional development. Among its most politically consequential moves was the **abolition of the caretaker government framework**, reshaping election-time governance and intensifying disputes over electoral legitimacy.

This choice became a central fault line in subsequent constitutional politics, because it linked constitutional form directly to the credibility of elections. Later litigation challenged this abolition. In **December 2024**, the High Court struck down portions of the Fifteenth Amendment that had abolished the caretaker system, and reporting indicates the court framed the issue in “basic structure” terms—treating credible elections and democratic competition as fundamental to constitutional order.<sup>53</sup>

#### 4.11 Recent constitutional reversals and ongoing transition (2024–2025)

The constitutional story did not stop at the 2024 High Court decision. In **November 2025**, Bangladesh’s Supreme Court Appellate Division reinstated the caretaker system for future elections, while indicating it would not apply to the next imminent parliamentary election cycle.<sup>54</sup>

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<sup>53</sup> 15th amendment to constitution: HC scraps part that abolished caretaker system’ (The Daily Star, 17 December 2024).

<sup>54</sup> ‘Bangladesh Supreme Court restores nonpartisan caretaker system but not for next elections’ (AP, 20 November 2025).

Major media reporting portrayed this as a significant recalibration intended to restore electoral confidence and reduce the risk of partisan capture of election administration.<sup>55</sup>

These developments show a distinctive Bangladeshi constitutional pattern: constitutional arrangements for elections have become *the* arena where deeper conflicts over legitimacy, trust, and political restraint are fought. In such contexts, constitutional text becomes both a peace treaty and a battlefield—constantly rewritten because norms are not reliably internalised by the main political actors.

#### 4.12 Another strand: judicial independence and the Sixteenth Amendment conflict

A parallel line of constitutional conflict concerns control over judicial accountability. The **Sixteenth Amendment (2014)** gave Parliament power over removal of Supreme Court judges, triggering substantial controversy and constitutional litigation.<sup>56</sup> Subsequent court decisions restored the centrality of the **Supreme Judicial Council** mechanism, with media reports emphasising the constitutional stakes for judicial independence.<sup>57</sup> This episode reinforces a recurring theme in Bangladesh’s constitutional development: amendments are frequently used to re-balance (or capture) institutions during high political contestation, and courts periodically intervene to enforce structural limits.

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<sup>55</sup> Supreme Court reinstates caretaker government’ (bdnews24.com, Nov 2025).

<sup>56</sup> *Writ Petition No 9989 of 2014* (Sixteenth Amendment litigation materials/judgment PDF, HRPB).

<sup>57</sup> Supreme Judicial Council, not parliament, will remove judges for incapacity or misconduct: SC’ (The Daily Star).

#### 4.13 Conclusion: a constitution shaped by repeated “foundings”

Bangladesh’s constitutional development is not a smooth evolution from founding to consolidation. It is better described as a cycle of **constitutional aspiration** → **political rupture** → **exceptional rule** → **legal validation** → **judicial correction** → **renewed contestation**. The constitutional order has been repeatedly “re-founded” through amendments, coups, court decisions, and political settlements.

This historical pattern is crucial for a thesis on *constitutional culture and the failure of norm internalisation*. Where constitutionalism becomes a strategic resource—invoked, suspended, amended, and restored depending on political advantage—actors learn that constitutional rules are negotiable. That learning process is itself a kind of constitutional culture, and it helps explain why formal constitutional provisions often fail to become stable, internalised norms in Bangladesh’s political life.



## **Chapter 5:**

# **Institutions and Constitutional Practice**

## 5.1 Introduction

This chapter shifts from constitutional text to constitutional practice. It asks a simple but decisive question: how do Bangladesh's core institutions behave when constitutional norms would require restraint, transparency, or fairness? In this thesis, *\*norm internalization\** means that constitutional commitments become routine constraints—followed because they are understood as obligatory and legitimate, not merely because violating them is temporarily risky.

In Bangladesh, the Constitution establishes familiar democratic institutions—Parliament, an accountable executive, an independent judiciary, elections administered by a constitutional Election Commission, and a rights framework meant to bind public power. Yet constitutional culture is formed not by the text alone but by the incentives, habits, and enforcement patterns that officials and citizens experience day to day. When institutions reward loyalty over legality, when enforcement is selective, or when oversight is ceremonial, constitutional norms remain external—invoked as rhetoric rather than lived as rules.

To connect institutional practice with observable trends, the chapter uses four indicator families: (i) Freedom House's *\*Freedom in the World\** scores (political rights and civil liberties), (ii) Transparency International's *\*Corruption Perceptions Index\** (CPI), (iii) the World Bank's Worldwide Governance Indicators (WGI)—Rule of Law, Control of Corruption, and Voice & Accountability, and (iv) parliamentary election turnout across key elections. These measures do not 'prove' causality, but they help triangulate whether institutions are generating predictable, rights-protecting, accountability-oriented behaviour over time.

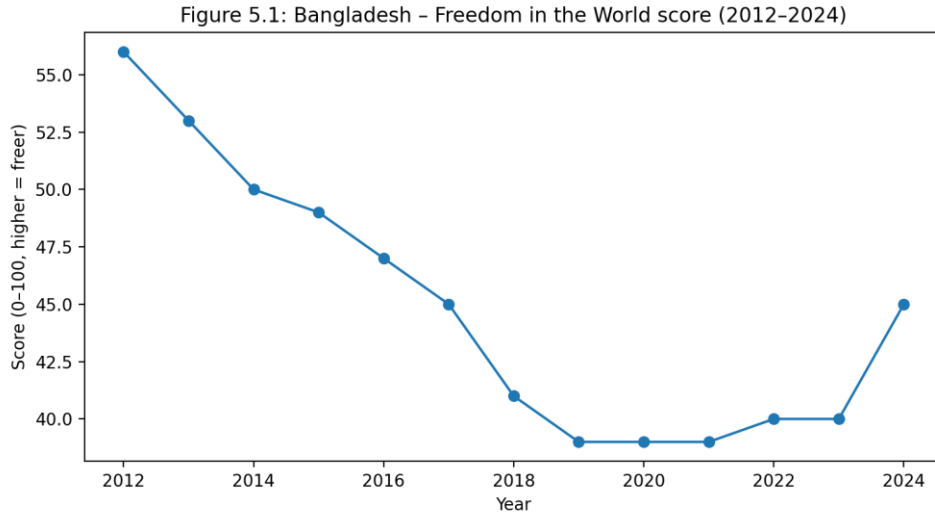


Figure 5.1: Freedom in the World score for Bangladesh (2012–2024). Source: Freedom House via World Scorecard.<sup>58</sup>

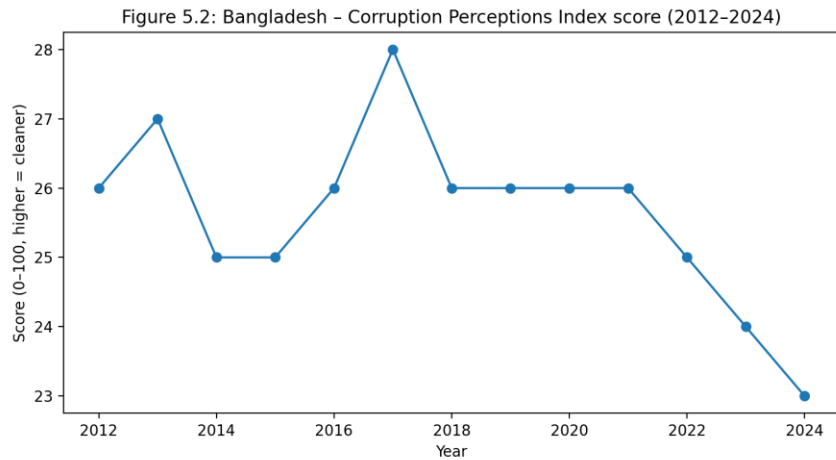


Figure 5.2: Corruption Perceptions Index score for Bangladesh (2012–2024). Sources: TI (CPI) via World Scorecard; CPI 2024 from TIB/Transparency International.<sup>59</sup>

<sup>58</sup> Freedom House, ‘Bangladesh: Freedom in the World 2024 Country Report’ (Freedom House, 2024).

<sup>59</sup> World Scorecard, ‘Bangladesh’s Freedom in the World (2012–2024) – Trends & Historical Data’ (World Scorecard, 2025) (data sourced to Freedom House).

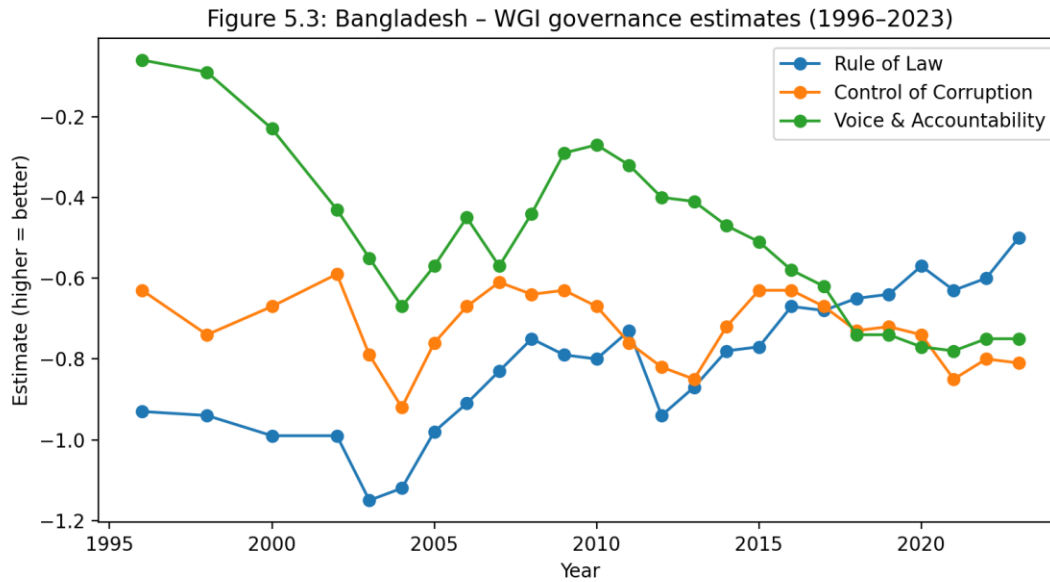


Figure 5.3: WGI governance estimates for Bangladesh (1996–2023): Rule of Law, Control of Corruption, Voice & Accountability. Source: World Bank WGI via World Scorecard<sup>60</sup>.

## 5.2 Parliament and the problem of effective oversight

Formally, the Jatiya Sangsad is the central representative institution. In practice, its checking capacity is often limited by party discipline, polarised competition, and episodes in which the opposition constrains itself through boycott or resignation. Freedom House describes Parliament as a 350-member body, with 300 directly elected members and 50 reserved seats for women allocated to parties based on their share of elected seats. This arrangement can improve descriptive representation for women, but it also reinforces the dominance of party leadership over parliamentary careers and incentives.

Parliamentary weakness has direct implications for norm internalization. Where committee scrutiny is thin and questioning of ministers is predictable or performative, the normative

<sup>60</sup> World Scorecard, ‘Bangladesh’s Rule of Law (1996–2023) – Trends & Historical Data’ (World Scorecard, 2025) (data sourced to World Bank WGI).

expectation that the executive should justify policy choices to elected representatives does not become a stable ‘rule of the game’. Instead, accountability shifts into informal channels—party hierarchies, bureaucratic chains of command, and discretionary control over resources.

The Freedom in the World score trend is consistent with a long-run narrowing of meaningful contestation and checks. Figure 5.1 shows a decline from 56 (2012) to 39–40 through much of 2019–2023, with a partial rebound to 45 in 2024. Even with year-to-year fluctuation, the overall pattern indicates that representative institutions have not consistently translated constitutional promises into stable protections for political rights and civil liberties.

### **5.3 Executive centralization and administrative incentives**

Bangladesh operates within a parliamentary system in which the political executive is structurally powerful. The critical question, however, is whether power is exercised through constitutional routines (cabinet deliberation, parliamentary accountability, lawful administration) or through increasingly centralized and informal mechanisms. When major decisions are coordinated through narrow political channels, officials learn that ‘the real rules’ are not always legal rules.

Freedom House links institutional weakness to executive dominance and limited scrutiny, noting that anticorruption safeguards are weak in practice and that the Anti-Corruption Commission is ineffective and vulnerable to political interference. In a culture shaped by selective enforcement, the internalized lesson for officials is not ‘follow neutral rules’ but ‘avoid risk by aligning with power’. That lesson is the opposite of constitutionalism as restraint.

### **5.4 Judiciary, rule of law, and enforcement credibility**

The judiciary is central to norm internalization because it transforms constitutional language into enforceable consequences. If courts are seen as unable to reliably constrain the executive—or if outcomes are expected to track political power—then constitutional norms become negotiable. The WGI Rule of Law series provides one proxy for enforcement credibility and legal predictability.

Figure 5.3 shows that Bangladesh's Rule of Law estimate improved from a low point around 2003 (-1.15) to its best level in the series by 2023 (-0.50). This suggests some improvement in perceived legal order compared with earlier decades. But two cautions matter. First, the values remain negative throughout, signalling persistent deficits relative to global benchmarks. Second, improvements in 'rule of law' perceptions can coexist with selective legality—where law is applied more consistently in some domains than others, and constitutional constraints on political power remain fragile.

In constitutional-cultural terms, what matters is not only whether courts sometimes deliver rights-protecting judgments, but whether officials generally expect that violations will be met with timely, impartial remedies. If enforcement is slow, uncertain, or politicized, norms struggle to become internalized.

### **5.5 Anti-corruption institutions and everyday legality**

Corruption is not only a development challenge; it is a constitutional-culture challenge because it normalizes the idea that public power can be converted into private advantage. Two indicator families help illustrate this domain: CPI (perceptions of public-sector corruption) and WGI Control of Corruption (perceptions of abuse of public power for private gain).

Figure 5.2 shows Bangladesh's CPI score fluctuating within a narrow and low band, with a decline from 28 (2017) to 24 (2023) and to 23 in CPI 2024 according to Transparency International Bangladesh and Transparency International's country page. In parallel, Figure 5.3 shows that Control of Corruption remains consistently negative from 1996 to 2023 (-0.81 in 2023).

Freedom House's narrative assessment aligns with these indices, describing corruption as widespread and anticorruption enforcement as politicized, with civic actors facing restrictions that reduce their capacity to expose wrongdoing. When anticorruption bodies are perceived as selective, officials internalize a norm of 'managed legality'—compliance depends on political alignment

rather than neutral rule-following. That norm corrodes constitutional equality and the expectation of impartial administration.

### **5.6 Civic space, media, and the ‘voice’ dimension**

Constitutionalism depends on civic space: journalists, lawyers, academics, and activists generate the public scrutiny that makes unconstitutional conduct costly. The WGI Voice & Accountability series is a proxy for civic contestation and expressive freedom. Figure 5.3 shows a decline from near-zero in 1996 (−0.06) to roughly −0.75 in the late 2010s and early 2020s.

Freedom House’s 2024 country report similarly details pressure on media and online expression, including lawsuits and harassment of journalists and continuing concerns that the Cyber Security Act may be used to stifle online speech. When civic contestation is chilled, constitutional norms lose a key route of internalization: they are invoked less often, generate fewer political consequences, and are more likely to be experienced as aspirational text rather than enforceable commitments.

## **5. Synthesis: why institutional practice blocks norm internalization**

The evidence assembled here points to an institutional pattern that undermines constitutional culture. Election credibility problems reduce the likelihood of meaningful alternation. Parliament’s oversight role is constrained by political incentives. Persistent corruption encourages informal transactions over formal rules. Shrinking civic space weakens the social enforcement mechanisms that support constitutional rights.

In such a setting, constitutional norms do not fully internalize because institutions do not consistently reward constitutional behaviour. Compliance becomes strategic and contingent, and constitutional language becomes a resource for political conflict rather than a shared standard of legitimacy. The result is a constitutional culture in which law is often instrumental—used to defeat rivals or legitimize decisions—rather than internalized as a common restraint on power.

**Chapter 6:**  
**Case Studies of Norm Failure**



## 6.1 Why case studies matter for “norm failure”

This thesis argues that Bangladesh’s constitutional problem is not only *what the Constitution says*, but whether core constitutional expectations become *internalized*—as ordinary, routine constraints on power. Case studies are useful because they show **how** norms fail in real institutional settings: who benefits, what legal tools are used, and why judicial or constitutional “fixes” often do not translate into stable practice.

In each case below, the pattern is similar: a constitutional norm is asserted (often strongly) in text or judgment, but **institutional incentives and enforcement weaknesses** prevent that norm from becoming the “default operating system” of governance.

## 6.2 Case Study 1: The Fifth Amendment Case and the normalization of unconstitutional power

**Norm at stake:** Supremacy of the Constitution; illegality of martial law; rejection of “constitutionalized coups.”

**Key decision:** *Khondker Delwar Hossain v Bangladesh (Bangladesh Italian Marble Works)*, Appellate Division (2010).

Bangladesh’s Fifth Amendment validated martial law proclamations and orders from 1975–1979, effectively using a constitutional amendment to grant legal cover to an unconstitutional seizure of power. That validation mattered culturally: it taught officials and citizens that constitutional rupture could later be “fixed” legally—reducing the moral and institutional cost of constitutional violation.

In *Bangladesh Italian Marble Works*, the Appellate Division upheld the High Court’s core finding that the Fifth Amendment’s attempt to legitimize martial law was unconstitutional, and reaffirmed the basic constitutional idea that extra-constitutional rule cannot be normalized through later legal

approval. The judgment is widely treated as a foundational statement against martial law and for constitutional supremacy.<sup>61</sup>

**Where norm internalization failed:**

Even when courts declare martial law unconstitutional, norm internalization fails if political actors continue to treat the Constitution as *secondary* to power (i.e., as something that can be rearranged to fit the winner’s preferences). The deeper failure is not only that coups happened; it is that **legal mechanisms were repeatedly used to launder illegality into legality**, training the system to expect retroactive validation.

**6.3 Case Study 2: The Seventh Amendment Case and the repeated cycle of rupture → legality**

**Norm at stake:** Democratic continuity; repudiation of military takeover; accountability for unconstitutional regime changes.

**Key decision:** *Siddique Ahmed v Bangladesh*, High Court Division (Writ Petition No 696 of 2010) and subsequent Appellate Division history.

The Seventh Amendment attempted to validate the 1982–1986 martial law period associated with General Ershad. In *Siddique Ahmed*, the High Court Division struck down the Seventh Amendment, declaring the relevant martial law instruments unconstitutional. The judgment’s institutional message was blunt: **the Constitution cannot be suspended by force and later “made legal” by amendment.**<sup>62</sup>

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<sup>61</sup> *Khondker Delwar Hossain (Secretary, BNP) v Bangladesh (Bangladesh Italian Marble Works Ltd)* (2010) 62 DLR (AD) 298 (Supreme Court of Bangladesh, Appellate Division).

<sup>62</sup> *Siddique Ahmed v Bangladesh* (Writ Petition No 696 of 2010) (High Court Division, Supreme Court of Bangladesh) (full text judgment)

### **Where norm internalization failed:**

The deeper cultural problem is that Bangladesh experienced multiple episodes of unconstitutional rule, and each episode produced pressures for legal validation afterward. When political settlements prioritize stability and elite bargains over constitutional accountability, courts may declare a rupture illegal—but **the political system still learns that rupture is survivable**. That is norm failure by repetition: even when law says “never again,” practice says “it happened before and the system absorbed it.”

### **6.4 Case Study 3: Masdar Hossain and the long delay in judicial independence**

**Norm at stake:** Separation of judiciary from executive control; independence of lower judiciary in appointments, discipline, and administration.

**Key decision:** *Secretary, Ministry of Finance v Masdar Hossain* (1999) 52 DLR (AD) 82.<sup>63</sup>

The *Masdar Hossain* litigation is the clearest example of a strong constitutional norm (judicial independence) meeting weak implementation capacity and political reluctance. The Appellate Division issued directives meant to ensure separation of the subordinate judiciary from the executive—an attempt to turn a constitutional promise into institutional design.

**The norm failure is visible in the timeline.** Scholarly accounts and legal commentary commonly note that meaningful separation was not effectively implemented until 2007. One peer-reviewed treatment states that “no effective steps were taken ... before 2007” and that formal separation occurred on **1 November 2007**.<sup>64</sup>

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<sup>63</sup> *Secretary, Ministry of Finance v Md Masdar Hossain* (1999) 52 DLR (AD) 82 (Supreme Court of Bangladesh, Appellate Division).

<sup>64</sup> Md Al-Emran, ‘Separation of Judiciary in Bangladesh—Constitutional Mandates and Challenges’ (2020) *International Journal of Court Administration* (noting formal separation on 1 November 2007).

The Daily Star’s discussion of the case also emphasizes implementation gaps and the continuing struggle to secure full independence in practice.<sup>65</sup>

**Where norm internalization failed:**

A norm is not internalized when officials can ignore it for years without consequence. In constitutional-cultural terms, the critical damage came from the **delay itself**: it communicated that constitutional directives—even from the apex court—could be treated as negotiable or postponable, depending on political convenience.

**6.5 Case Study 4: The Sixteenth Amendment Case and “checks” turned into political weapons**

**Norm at stake:** Judicial independence as a basic-structure element; limits on parliamentary control over removal of Supreme Court judges.

**Key decisions:** High Court verdict (2016) and Appellate Division (2017) striking down the Sixteenth Amendment; later review-related developments (reported).<sup>66</sup>

The Sixteenth Amendment (2014) transferred the power to remove Supreme Court judges to Parliament, replacing the Supreme Judicial Council mechanism. Courts struck it down, treating the change as inconsistent with judicial independence and separation of powers. Dhaka Tribune’s reporting on the released full text explains the amendment’s effect and the court’s rejection of it.<sup>67</sup>

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<sup>65</sup> M Rafiqul Islam, ‘Independence of the judiciary—The Masdar case’ *The Daily Star* (discussion of implementation and remaining gaps).

<sup>66</sup> *Government of Bangladesh v Advocate Asad-uz-zaman Siddiqui* (Sixteenth Amendment case) (Appellate Division judgment reported 2017) (discussed in full-text release reports).

<sup>67</sup> ‘Full text of 16th Amendment verdict released’ *Dhaka Tribune* (1 August 2017).

### **Where norm internalization failed:**

This is a “norm failure through redesign.” Instead of building trust through neutral institutions, constitutional change attempted to **restructure accountability** in a way that (in context) increased the risk of political control over the judiciary. Even if one argues that democratic accountability of judges is important, internalization requires *credible neutrality*. Where party polarization is high and oversight institutions are not trusted, transferring removal powers to Parliament can be interpreted as a tool to discipline judges—damaging the culture of independence.

Recent reporting also shows that the Sixteenth Amendment dispute continued to shape constitutional politics years later (including discussion of the case’s “spirit” and implications for judicial independence).

### **6.6 Case Study 5: Elections, caretaker government, and the credibility collapse of constitutional democracy**

**Norm at stake:** Free and fair elections as the core legitimating mechanism of the constitutional order.

**Key episodes and decisions:** Abolition of caretaker system via Fifteenth Amendment; High Court decision declaring abolition illegal (December 2024); Appellate Division restoration with delayed effect (November 2025).<sup>68</sup>

Bangladesh’s caretaker government system was designed to protect election neutrality. Its removal became one of the most contested constitutional changes because it directly touched electoral trust—the foundation for democratic legitimacy.

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<sup>68</sup> ‘15th Amendment to constitution: HC scraps part that abolished caretaker system’ *The Daily Star* (17 December 2024).

In December 2024, major Bangladeshi outlets reported that the High Court declared illegal the constitutional change abolishing the caretaker system, restoring the path to its return and reviving referendum-related provisions.<sup>69</sup>

In November 2025, the Associated Press reported that Bangladesh’s Supreme Court restored the caretaker system but held it would not apply to the next election then expected in early 2026.

Dhaka Tribune reporting also discusses public questions triggered by restoring the system while postponing its operation.

### **Where norm internalization failed:**

This case study shows a classic internalization failure: **when election administration is not trusted, all other constitutional norms weaken.** Opposition parties shift away from institutional politics; citizens expect pre-determined outcomes; and constitutional participation becomes ritualistic. Even court-driven restoration cannot instantly rebuild culture, because trust is not a switch—it is a long-run product of repeated credible elections.

### **6.7 Case Study 6: Due process collapse—arbitrary arrest, remand, and torture despite Supreme Court directives**

**Norm at stake:** Personal liberty, due process, protection from arbitrary arrest and torture; effective judicial control over policing powers.

**Key decision:** *Bangladesh v BLAST* (Civil Appeal No 53 of 2004), Appellate Division judgment dated 24 May 2016 (Section 54/167 guidelines).

The BLAST litigation is one of Bangladesh’s most important “rule of law” cases because it attacks a day-to-day norm failure: routine arbitrary arrest under section 54 of the CrPC and coercive

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<sup>69</sup> Hasina govt’s scrapping of polls-time caretaker system illegal: HC’ *The Business Standard* (17 December 2024).

remand practices under section 167. BLAST’s own materials summarize that the Appellate Division upheld guidelines aimed at preventing abuse of arrest and remand powers.<sup>70</sup>

The Attorney General’s Office also hosts the full Appellate Division judgment document and citation metadata for the 2016 decision.

**Where norm internalization failed:**

The key failure is that constitutional rights do not internalize when enforcement is inconsistent at street level. Even after apex court guidance, credible human rights reporting continues to document torture, arbitrary arrest, and rearrest practices. The US State Department’s Bangladesh human rights reporting notes that police routinely rearrest bailed individuals despite Supreme Court directives limiting such rearrests without producing them in court.

Amnesty and Human Rights Watch reporting also continues to emphasize impunity for torture and serious allegations of abuse by security forces, reinforcing the gap between constitutional promise, judicial directive, and lived reality.

This is “norm failure by non-compliance”: constitutional rights exist and are judicially articulated, but institutions do not consistently train officers to treat compliance as mandatory. Where the probability of accountability remains low, illegality becomes routine—and routine illegality is the opposite of internalized constitutional culture.

**6.8 Case Study 7: “Rights without enforcement”—sexual harassment guidelines and partial compliance**

**Norm at stake:** Equality, dignity, and protection from gender-based violence; converting constitutional rights into institutional obligations.

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<sup>70</sup> *Bangladesh and ors v Bangladesh Legal Aid and Services Trust (BLAST) and ors* (Civil Appeal No 53 of 2004) (Appellate Division, 24 May 2016) (guidelines on arrest and remand).

**Key decision:** *BNWLA v Government of Bangladesh* (Writ Petition No 5916 of 2008) (HCD, 14 May 2009) (sexual harassment guidelines).<sup>71</sup>

In *BNWLA*, the High Court issued detailed guidelines to address sexual harassment in workplaces and educational institutions—an effort to fill legislative gaps using constitutional rights and international standards. The judgment text is publicly available and has been summarized in reputable legal repositories.

**Where norm internalization failed:**

Norm failure here often appears as **implementation drift**: complaint committees exist on paper but are weak in practice; reporting remains risky; confidentiality is not reliably maintained; and institutional leadership may not treat guidelines as binding operational rules. Legal commentary in mainstream outlets continues to revisit the case because compliance remains uneven, which itself is evidence that the norm has not fully internalized as routine governance practice.

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<sup>71</sup> *Bangladesh National Women Lawyers Association (BNWLA) v Government of Bangladesh and ors* (Writ Petition No 5916 of 2008) (14 May 2009) 29 BLD (HCD) 415.



**Chapter 7:**  
**Prospects for Constitutional Reform**

## 7.1 Rebuilding legitimacy through election reform

The most urgent reform priority is restoring **credible elections**, because electoral legitimacy is the foundation on which other constitutional norms become politically “worth following.” Where opposition parties and voters doubt that elections can rotate power, constitutional compliance becomes performative and conflict shifts outside institutions. Bangladesh’s recent constitutional litigation and political debate over election-time arrangements—especially the caretaker system question—shows that election administration has become a constitutional trust issue rather than a technical matter. Any durable reform therefore needs a **politically acceptable neutrality mechanism** (whether a redesigned caretaker model or a strengthened Election Commission framework) combined with practical transparency measures like clear observer rules and publication standards for results.

## 7.2 Strengthening “referee” institutions with neutral appointments and real capacity

Independent commissions and accountability bodies cannot build constitutional culture unless they are seen as **neutral**, professionally competent, and able to enforce decisions without fear. This makes the appointment process a central reform target. A structured, publicly reasoned appointment mechanism—shortlists, published criteria, and transparent selection—helps reduce perceptions that referee institutions are extensions of the ruling party. Beyond appointments, institutions need operational independence in budgeting and staffing so their autonomy is not merely formal. International accountability frameworks consistently emphasize that integrity institutions work when they combine independence, capacity, and enforcement credibility, rather than relying on legal status alone.

### **7.3 Making Parliament an effective check, not a ceremonial institution**

Constitutional norms do not internalize when Parliament lacks real oversight power. Reform should focus on routine parliamentary accountability: stronger committee systems, predictable ministerial questioning, and public reporting that creates political cost for non-cooperation. A careful and limited rethinking of Article 70 is also relevant, because extreme party discipline weakens deliberation and can reduce Parliament’s checking function. Rather than abolishing party discipline entirely, reform could be targeted—protecting stability for confidence and budget votes while allowing limited conscience voting for oversight or specific legislative categories. This would strengthen constitutional practice without inviting frequent government collapse.

### **7.4 Improving judicial independence and speeding up constitutional enforcement**

Judicial independence matters not only as a constitutional value but as an enforcement mechanism: norms internalize when actors expect that violations will be met with timely and impartial remedies. Constitutional reform should therefore avoid accountability designs that increase partisan control over judicial discipline—an issue raised in major litigation surrounding changes to judge-removal mechanisms. At the same time, the effectiveness of constitutional justice depends on implementation. Bangladesh’s experience shows that landmark judgments can remain symbolically powerful yet practically slow to translate into administrative routines. A reform-oriented agenda should therefore include systems that track and ensure implementation of constitutional rulings, and procedural fast-tracking for election disputes and fundamental rights cases so remedies remain meaningful.

### **7.5 Building “everyday constitutionalism” through policing and due-process reform**

For many citizens, constitutionalism is not experienced in courtrooms or parliamentary debates—it is experienced during arrest, remand, and interactions with police and security institutions. That

is why reform must include operational changes that embed constitutional norms into daily administration. Supreme Court guidelines on arrest and remand are a strong legal foundation, but norm internalization requires training, supervision, disciplinary enforcement, and transparent reporting. A practical reform pathway includes standard operating procedures at station level, independent complaint mechanisms with real investigative capacity, and publication of basic statistics on remand use and custodial abuse allegations. When routine legality improves, constitutional rights stop being aspirational and start becoming habit.

### 7.6 Protecting civic space and constitutional literacy to create “social enforcement”

Even well-designed institutions struggle to sustain constitutionalism if citizens, journalists, lawyers, and civil society cannot openly contest violations. Constitutional culture strengthens when unconstitutional behaviour becomes socially costly—through exposure, public criticism, and democratic pressure. Reform therefore includes legal and institutional protections for civic actors, and long-term investment in constitutional literacy so citizens understand rights and institutional roles in practical terms. Without civic space, norms are harder to internalize because violations generate fewer audience costs and constitutional commitments become less visible in public life.

### 7.7 A realistic reform pathway: incremental change anchored in a political settlement

Bangladesh’s constitutional experience suggests that reform is most durable when it combines a **minimum political settlement** (especially on election credibility) with incremental institutional improvements that change incentives over time. Instead of relying on a single sweeping amendment, reform should prioritize:

- (i) a trusted election governance arrangement,
- (ii) stronger referee institutions through neutral appointments and capacity,

- (iii) revived parliamentary oversight routines, and
- (iv) (iv) enforceable rule-of-law reforms in policing and everyday administration. Over time, repeated credible practice can do what text alone cannot: make constitutional restraint the normal and politically rational choice.

## **Chapter 8:**

## **Conclusion**

## Re-stating the thesis problem

This thesis began with a persistent constitutional paradox in Bangladesh: **a detailed written Constitution that promises democracy, rule of law, fundamental rights, and limited government, yet a constitutional practice that repeatedly falls short of those commitments.**

The purpose was not simply to describe institutional weaknesses or list constitutional amendments, but to explain *why* constitutional principles—despite being formally entrenched and often judicially affirmed—have struggled to become stable, taken-for-granted restraints on political power. The thesis argued that the best explanation lies in **constitutional culture** and the **failure of norm internalization**: constitutional rules often remain external, strategic, and reversible rather than internal, habitual, and binding.

## What the study found

Across the historical narrative and institutional analysis, the thesis demonstrated that Bangladesh’s constitutional development has followed a recognizable pattern: **constitutional aspiration is repeatedly disrupted by political rupture, crisis governance, retrospective legalization, and renewed contestation.** This pattern matters because it shapes expectations. Where the system repeatedly absorbs constitutional breach—whether through emergency rule, amendment politics, or selective enforcement—political actors learn that constitutional limits can be managed, delayed, or redesigned. In this environment, constitutional fidelity does not become the default “role morality” of office-holders; instead, constitutional interpretation becomes an instrument of political competition.

The conceptual framework in Chapter 2 clarified a crucial distinction: **compliance is not the same as internalization.** Bangladesh may comply with constitutional rules in moments of necessity, but internalization would mean something deeper—costly compliance, cross-partisan consistency,

institutional routinization, and social stigma for breach. Using these indicators, the thesis showed that many key constitutional norms in Bangladesh—electoral competitiveness, impartial administration, judicial independence, due process, and accountability—have often been treated as negotiable rather than obligatory.

### **Institutional practice as the main site of norm failure**

Chapter 5 brought the argument into institutional life. The thesis showed that **weak parliamentary oversight, executive dominance, politicization of accountability bodies, and declining civic space** undermine the everyday conditions needed for internalization. Where oversight is thin and enforcement is selective, constitutional norms become “paper commitments.” Importantly, the thesis emphasized that constitutional culture is not abstract: it is produced by incentives. When political survival is framed as existential and the costs of losing power are exceptionally high, a winner-takes-all logic dominates—and constitutional restraint becomes harder to sustain.

### **Case studies and the mechanics of breakdown**

The case studies in Chapter 6 supplied the clearest evidence of how norm failure operates. They illustrated multiple pathways by which constitutional norms collapse: **retroactive validation of unconstitutional rule, delayed or incomplete implementation of landmark judicial directives, institutional redesign motivated by partisan advantage, and persistent gaps between rights doctrine and street-level practice.** These episodes confirm a core claim of this thesis: Bangladesh’s constitutional crisis is not primarily a shortage of legal principles, but a shortage of **credible enforcement, routinized compliance, and shared legitimacy.** Courts can articulate constitutional meaning, but courts alone cannot manufacture the political and institutional conditions that make constitutional meaning stick.



## Implications for constitutional reform

The reform discussion in Chapter 8 followed directly from this diagnosis. The thesis concludes that constitutional reform in Bangladesh must be evaluated by a simple standard: **does the reform make constitutional compliance routine, credible, and politically rational?** If reforms only adjust text without changing incentives and enforcement capacity, they risk repeating the cycle of symbolic constitutionalism. The thesis therefore identifies **electoral legitimacy** as the pivotal priority: where elections are not trusted, constitutional democracy becomes performative and other norms weaken. In parallel, the thesis supports reforms that strengthen referee institutions through neutral appointments and operational capacity, make Parliament a functioning check, protect judicial independence while improving implementation follow-through, and build “everyday constitutionalism” through policing and due-process enforcement. Finally, the thesis underscores that civic space is not a secondary matter—without public contestation, constitutional breach becomes cheap and internalization becomes unlikely.

## Contribution and closing reflection

This thesis contributes an integrated explanation of Bangladesh’s constitutional fragility by linking **history, institutions, and case-based mechanisms** to a single analytical core: the weakness of constitutional culture and the failure of norm internalization. Bangladesh’s constitutional experience shows a broader lesson relevant to many postcolonial constitutional democracies: **constitutional text is necessary but not self-executing**. A constitution governs effectively only when its norms are internalized—when political actors expect restraints to be real, when institutions reward lawful behaviour, and when society treats constitutional breach as unacceptable.

In conclusion, Bangladesh’s constitutional challenge is not simply to draft better rules, but to build a political and institutional environment where constitutional restraint becomes normal. That is a

long project—because culture is built through repetition—but it is not impossible. If Bangladesh can secure credible election governance, strengthen neutral enforcement institutions, and restore the social conditions in which accountability is real, constitutional norms can move from aspiration to habit. The Constitution will then function less as a battleground for partisan advantage and more as a shared framework that makes political power legitimate.

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