



Constitutionalism and Democratic Governance in South Asia: A Comparative Study of the Constitutions of Sri Lanka and Bangladesh

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Abstract

Constitutionalism in South Asia reflects the complex interaction between democratic ideals, post-colonial state-building and socio-political realities. This research paper undertakes a comparative analysis of the Constitution of the Democratic Socialist Republic of Sri Lanka and the Constitution of the People's Republic of Bangladesh, two constitutions shaped by colonial legacies, nationalist movements, and aspirations for social justice. Both constitutional frameworks aim to establish democratic governance, guarantee fundamental rights, and ensure the sovereignty of the people, yet they differ significantly in institutional design, treatment of religion, and constitutional amendment processes. The study adopts a doctrinal and comparative methodology, examining constitutional texts, amendments, judicial interpretations, and scholarly literature. It focuses on core constitutional principles such as popular sovereignty, separation of powers, fundamental rights, directive principles of state policy, and judicial review. Special emphasis is placed on the evolving role of the executive and judiciary in shaping constitutional governance in both countries.

The Sri Lankan Constitution is analyzed in the context of its strong executive presidency, unitary structure, and frequent constitutional amendments, which have periodically altered the balance of power among state institutions. In contrast, the Constitution of Bangladesh is examined through its foundational commitment to nationalism, socialism, democracy, and secularism, as well as the development of the basic structure doctrine through judicial intervention to protect constitutional supremacy. The paper argues that while both constitutions formally uphold democratic values and fundamental rights, constitutional practice often reveals tensions between constitutional ideals and political realities. Judicial independence, constitutional morality, and political culture play a decisive role in determining the effectiveness of constitutional governance. The comparative insights offered by this study contribute to broader debates on constitutional design, democratic resilience, and the future of constitutionalism in post-colonial societies.

Keywords: Constitutionalism, comparative constitutional law, Sri Lanka Constitution, Bangladesh Constitution, democratic governance, fundamental rights, separation of powers, judicial review, executive power, South Asia

Introduction

A constitution is the supreme legal instrument through which a state organizes political authority, defines the relationship between the state and its citizens, and articulates its foundational values. In democratic societies, constitutionalism signifies not merely the existence of a written constitution but the limitation of governmental power through law, accountability, and respect for fundamental rights. In post-colonial states, constitutions also serve as instruments of nation-building, reflecting aspirations for sovereignty, social justice, and democratic governance. South Asia presents a unique constitutional landscape shaped by colonial rule, nationalist movements, and diverse social realities. Countries in the region adopted written constitutions to break from colonial governance structures and assert political independence. However, constitutional development in South Asia has been marked by political instability, military interventions, constitutional amendments, and evolving interpretations of democratic governance. Sri Lanka and Bangladesh provide particularly instructive case studies. Sri Lanka's constitutional journey reflects tensions between centralized authority and democratic accountability, especially following the introduction of the executive presidency. Bangladesh's constitutional history reveals a struggle to preserve constitutional supremacy amid political upheavals, military rule, and ideological shifts.

This paper seeks to compare the constitutional frameworks of Sri Lanka and Bangladesh to understand how constitutional design and institutional practice influence democratic governance. By examining constitutional principles, institutional arrangements, and judicial interpretations, the study highlights similarities and divergences in constitutional development and assesses the effectiveness of constitutionalism in both states.

Historical Background and Constitutional Evolution

1. Constitutional Development in Sri Lanka

- Sri Lanka's constitutional history can be traced to the colonial period under British rule. The Soulbury Constitution of 1947 established parliamentary democracy following independence in 1948. However, post-independence political developments led to demands for constitutional reform to reflect national identity and sovereignty.
- The 1972 Constitution marked Sri Lanka's transition to a republic, replacing the British monarch as head of state. It emphasized parliamentary supremacy and centralized power. The 1978 Constitution introduced a major transformation by establishing a powerful executive presidency, fundamentally altering the balance of power between the executive, legislature, and judiciary.

- Frequent constitutional amendments, including the 17th, 18th, 19th, 20th, and 21st Amendments, reflect ongoing struggles between executive dominance and institutional accountability. These changes demonstrate the fluid nature of constitutional governance in Sri Lanka.

2. Constitutional Development in Bangladesh

- The Constitution of Bangladesh was adopted in 1972 following independence from Pakistan. It was founded on four fundamental principles: nationalism, socialism, democracy, and secularism. The constitution aimed to establish a democratic and egalitarian society after a violent liberation struggle.
- However, political instability and military coups led to constitutional suspensions and amendments, particularly during periods of military rule. Secularism was replaced with religious provisions, and executive power was strengthened. Judicial interventions later restored secularism and introduced the basic structure doctrine to protect core constitutional principles.
- Bangladesh's constitutional evolution highlights the judiciary's critical role in preserving constitutional supremacy against political interference.

Constitutional Structure and Separation of Powers

1. Executive Authority

- Sri Lanka's executive presidency concentrates significant power in the hands of the President, including control over the cabinet, legislature, and key appointments. This structure has raised concerns about authoritarianism and weakened checks and balances.
- Bangladesh follows a parliamentary system where executive power is exercised by the Prime Minister and Council of Ministers. While constitutionally accountable to Parliament, political dominance by ruling parties has often weakened legislative oversight.

2. Legislature

In Sri Lanka, Parliament exercises legislative power but is often overshadowed by executive authority. In Bangladesh, Parliament plays a central role in law-making but faces challenges due to party discipline and limited opposition influence.

3. Judiciary

Judicial independence is constitutionally guaranteed in both countries. Bangladesh's judiciary has actively asserted its authority through judicial review and constitutional interpretation. In Sri Lanka, judicial independence has fluctuated depending on constitutional amendments and political pressures.

4. Fundamental Rights and Directive Principles

- Both constitution's guarantee fundamental rights such as equality, freedom of speech, religion, and protection of life and liberty. Sri Lanka's constitution includes justiciable fundamental rights, while Bangladesh distinguishes between enforceable rights and non-justiciable directive principles.
- Judicial enforcement of rights has been stronger in Bangladesh due to proactive judicial interpretation, whereas in Sri Lanka, restrictions and emergency provisions have sometimes limited rights protection.

5. Religion, Secularism, and Constitutional Identity

Sri Lanka grants Buddhism the foremost place while assuring religious freedom. Bangladesh originally adopted secularism but later declared Islam as the state religion, while maintaining religious freedom. Judicial interpretation in Bangladesh has attempted to reconcile secularism with religious identity.

6. Constitutional Amendments and Judicial Review

Sri Lanka's constitution allows extensive amendments, enabling frequent changes that affect governance structures. Bangladesh's judiciary has limited amendment powers through the basic structure doctrine, protecting constitutional fundamentals from political manipulation.

7. Challenges to Constitutionalism and Democratic Governance

Both countries face challenges such as executive dominance, politicization of institutions, and erosion of democratic norms. Strengthening constitutional culture, judicial independence, and respect for the rule of law remains essential.

Conclusion

This comparative study demonstrates that constitutionalism in South Asia is shaped by both constitutional text and political practice. While Sri Lanka and Bangladesh differ in constitutional design, both struggles to balance democratic governance with political realities. Sustainable constitutional democracy requires not only well-designed constitutions but also commitment to constitutional values, institutional integrity, and democratic accountability.

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