

JUSTICE WITHOUT FEAR: HOW JUDICIAL INDEPENDENCE SHAPES GOVERNANCE AND THE RULE OF LAW

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Judicial independence is often described as a foundational element of the rule of law, yet its practical role in shaping governance is frequently understated. This paper argues that an independent judiciary is not merely a constitutional ideal but a decisive mechanism through which democratic accountability is sustained and abuses of power are constrained. Where courts are able to operate without political interference, governance becomes predictable, rights-based, and legitimate. Where judicial independence is compromised, the rule of law deteriorates into discretionary governance driven by executive convenience rather than legal principle. Using a comparative constitutional approach, the paper examines Sri Lanka, the United Kingdom, and South Africa to illustrate how judicial independence functions under differing political and constitutional conditions. In Sri Lanka, although the Constitution formally guarantees separation of powers, repeated controversies surrounding judicial appointments and impeachment processes reveal structural and cultural vulnerabilities that weaken the judiciary's role as an effective check on political authority. These challenges demonstrate how constitutional recognition alone is insufficient without sustained institutional respect. By contrast, the United Kingdom illustrates how judicial independence can be entrenched through constitutional conventions and institutional reforms rather than a written constitution. The Constitutional Reform Act 2005 significantly strengthened the separation between the judiciary and political branches, reinforcing public confidence in the courts and enhancing legal accountability within governance. South Africa presents a further model in which judicial independence has been central to democratic transformation. Since the end of apartheid, the Constitutional Court has actively enforced constitutional supremacy, protected fundamental rights, and reviewed state action, thereby shaping governance in a manner consistent with constitutional values. This comparative analysis demonstrates that judicial independence depends as much on political culture and institutional practice as on formal constitutional guarantees. The paper concludes that sustainable governance requires not only legal safeguards for judicial autonomy but also a broader commitment to respecting the judiciary as an essential guardian of the rule of law.

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