

Amending the Constitution

In countries like Bangladesh, where democracy is yet to take root, amendments to Constitutions sometimes have taken place to suit the interests of a particular person or to meet the interests of the party in power.

M. ABDUL LATIF MONDAL

WHILE talking to newsmen at his secretariat office on September 24, Awami League (AL) General Secretary and LGRD & Cooperatives Minister, Syed Ashrafur Islam, said that the government won't amend the Constitution unilaterally to decide the fate of the caretaker government system and tenure of parliament. Rather, it would try to reach a consensus on the matters.

While talking to reporters during a visit to the Durga Puja Mandap at Dhakeshwari Temple in the city on September 25, Deputy Leader of the House, Syeda Sajeda Chowdhury, said that the AL alone wouldn't interfere with the Constitution. The above statements made by the two top-ranking leaders of the ruling AL deserve appreciation.

Amending the Constitution is an ongoing process in any democratic country to meet the demands of changed circumstances. The Indian Constitution, which is the longest written constitution of any sovereign country in the world, has been amended 94 times since its coming into force on January 26, 1950.

The Constitution of the United States of America is the shortest and oldest written constitution still in use by any nation in the world. Adopted on September 17, 1787 the Constitution of US has been amended 27 times so far.

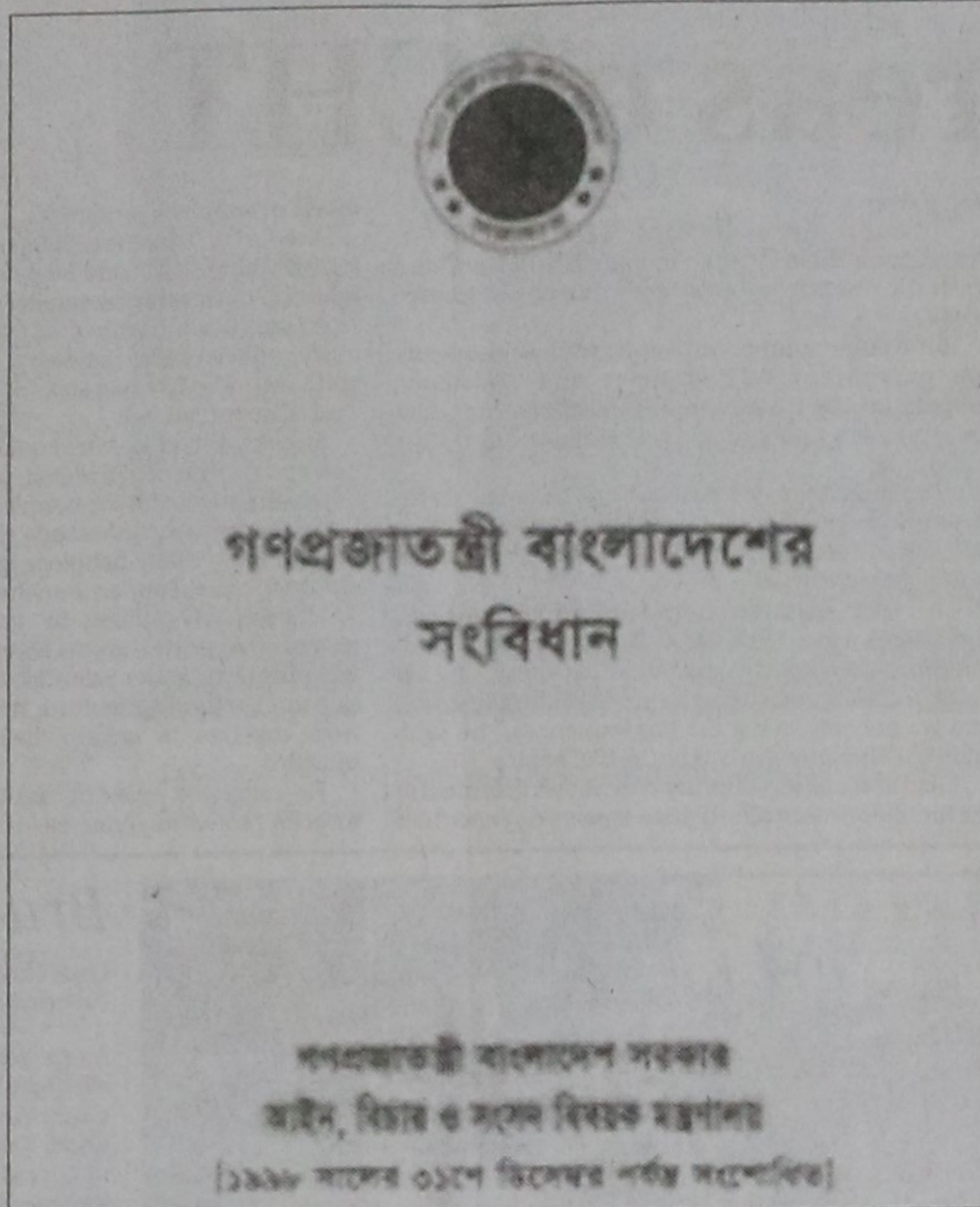
More such instances may be cited.

Countries having a long tradition of democracy have gone for amendment(s) of their Constitutions in greater national interests. But in countries like Bangladesh, where democracy is yet to take root, amendments to Constitutions sometimes have taken place to suit the interests of a particular person or to meet the interests of the party in power.

The Constitution of Bangladesh that came into force on December 16, 1972 has undergone 14 amendments so far. The first, second, third and fourth amendments to the Constitution were made between July 1973 and January 1975 during the AL period. Not that all these amendments have served the interest of the people and the nation. The second amendment of September 1973 provided for preventive detention and inserted "Part IXA" in the Constitution, conferring power on the parliament and the executive to deal with emergency situations and providing for suspension of enforcement of fundamental rights during a period of emergency.

The basic and essential features of the Constitution were altered and destroyed by the fourth amendment of January 1975. It replaced, inter alia, multi-party parliamentary democracy with a one party presidential system. The above amendments were passed when the AL had 97.66% majority in the House.

The fifth amendment of April 1979,



Changing with the times.

and the seventh amendment of November 1986 gave validation to extra-constitutional military rules of Ziaur Rahman and H.M. Ershad respectively. These two amendments were passed during the period of BNP government and Jatiyo Party government respec-

tively.

A historic amendment -- the 12th amendment -- was passed unanimously by Parliament in September 1991 during the period of BNP government to return Bangladesh to a parliamentary system of government and virtually restore the

original Constitution of 1972.

Another very important amendment -- the 13th amendment -- was passed in March 1996, making a provision for a non-party-caretaker government in the Constitution. The ruling BNP passed the 13th amendment due to heavy pressure from the political parties, including the AL.

The amendment provides, among others, that there shall be a non-party caretaker government from the date on which the chief adviser of such a government enters upon office after parliament is dissolved, or stands dissolved by reason of expiration of its term, till the date on which a new prime minister enters office after the constitution of the parliament. It shall assist the Election Commission in holding a general election of members of parliament within 90 days after parliament is dissolved.

The above background is given to stress that only supreme national interest, and not the interest of the ruling party, should guide amendment(s) to the Constitution. Failure to do so may bring disasters for the nation.

There is no denying the fact that the Constitution, particularly the three organs of the state namely the executive, legislature and judiciary, need a thorough review. The issues that may be reviewed include, inter alia:

- Empowering the president in line with the powers enjoyed by the presidents or heads of states practising parliamentary system of government;
- Provision for constituting a constitutional council to regulate appointments to the constitutional bodies, higher judiciary and quasi-judicial bodies;
- Scrapping or amending the non-party caretaker government system;

- Reducing the tenure of parliament;
 - Clarifying the role of the lawmakers in the local government bodies;
 - Amending Article 70;
 - Amending Article 142 to make provision for taking the people's opinion on different important national issues, which will be in addition to the existing issues that require the people's verdict.
- Due to shortage of space, these issues can't be elaborated in this column and the writer intends to discuss them later on.

Talking to reporters on September 24, Law Minister Shafique Ahmed said that his ministry was going to ask the Law Commission to revive some major features of the 1972 Constitution. This appears to contradict the statements of Syed Ashrafur Islam and Syeda Sajeda Chowdhury that the AL alone wouldn't interfere with the Constitution and would try to reach a consensus on this vital issue.

Constitutional experts and civil society leaders feel that the issue of amending the Constitution should be discussed with the opposition in Parliament, and if there is minimum agreement then it should be sent to the constitutional reforms commission -- to be constituted by the government -- for in-depth examination and recommendations. Article 142 of the Constitution provides for special procedures for amending the Constitution.

Constitutional Reform Commissions exist in many countries. In 2001, the National Commission to Review the Working of the Constitution was set up to look into updating the constitution of India.

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Between the horns of the disaster risk reduction dilemma

For the families who live at the coast, migration to cities is not a choice; it's a necessity. The coast now has fewer jobs, less arable land, or even dry land to build houses on; schools get flooded and closed down; trees, crops and vegetation are dying from salinity, and fresh drinking water is always scarce in supply.

FARIHA SARAWAT

MODHUMITA, a housewife and mother of two, hasn't had a full night's sleep since May not since her house and the small shrimp hatchery her family owned got washed away by Cyclone Aila and her two small children almost died.

The last time I was down in her village Shakhbaria: a small community of about a 40-50 mainly Hindu families on the south-western coastal belt of Khulna her family of seven was still living in a makeshift house made of straw, fronds and plastic sheeting provided by Save the Children UK.

This was almost four months after the Cyclone had hit the house that got washed away. That was an NGO-prescribed "climate-resilient" variety of the kind that had been built to stand tall even against the onslaught of violent, tropical storms. It got washed away by

the fierce tidal surge of unprecedented velocity. The early warning systems in place had only predicted the storm, not the ferocity of the tidal surge. The collateral damage was not caused by the storm, but by the mighty tidal surge that it had propelled. This shows once again that we need to scale up our disaster risk reduction efforts and hone our early warning systems.

I have worked with two different kinds of climate change survivors the ones who live at the forefront, on the coast, and deal with the frequent calamities, and the ones who have migrated to the cities because they figured survival, which is hard enough in this part of the world under normal circumstances, would just be easier if they didn't have to fight a huge storm or flood every few months.

The latter group seems to be increasing in number. But not out of choice.

For the families who live at the coast,

migration to cities is not a choice; it's a necessity. The coast now has fewer jobs, less arable land, or even dry land to build houses on; schools get flooded and closed down; trees, crops and vegetation are dying from salinity, and fresh drinking water is always scarce in supply.

But here's the irony things are worse in the cities.

The cities are overcrowded. The slums where the migrant families take shelter are already too cramped with their former residents. The condition of the sewerage system is abominable, and it continues to contaminate drinking

water sources; housing is scarce and expensive, as is the general cost of living. Hence entire families, including the young children, have to work for food and rent. I met one ten-year-old boy in a Dhaka slum called Rubel, who's been working since he was just five years old. His parents had moved to Dhaka after their home had been washed away by river erosion.

Sitting here at the forefront of climate change, we hear talks of helping climate change migrants cope with their changing lives in the city. While I applaud this effort, I can't help but wonder if this is how we're looking at reducing risks and damage from disasters by shifting people away from the disaster zones.

Is this not myopic? Will it be sustainable?

Where are we planning on whisking people away? We have no space!

As the world gears up for the December talks in Copenhagen, life is still not picking up speed in the Aila-devastated areas of Khulna and Satkhira. With scores of families still living in makeshift houses on the embankment and children still dependent on humanitarian aid for their basic needs of food, safe drinking water, and medicine, and most importantly a safe shelter, life is still far from "normal".

But what is most jarring about the whole tragedy is that given the present trends in climate change higher fre-

quency and intensity in disasters, more forceful tidal waves and rising water levels this "makeshift" lifestyle can become the norm for the region.

How will these people cope? Who will help them? Or will they also be forced to migrate?

While most of the world's brilliant minds are occupied with developing complicated models and equations to figure out the phenomena, very little is being done to help the people living at the forefront adapt to their changing situation. People like Rubel and Modhumita are the human faces of the climate change. And while the world negotiates the policy trade offs, they're the ones left to pick up the pieces a job that is becoming increasingly difficult.

After the next disaster that strikes Bangladesh, Modhumita, like Rubel's family, will also move to the city, which will in no way improve her situation this is provided of course that we are able to save the family from the next flood or cyclone. Without a comprehensive disaster risk reduction and emergency preparedness plan in place, saving people from the onslaught of high frequency disasters will get increasingly difficult.

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Living dangerously.

Public private partnership of FAO

This movement will bring together the public and the private sector in creating a better veterinary service for the nation. It also aims to focus on the strengths and the weaknesses of both the sectors.

NAIMA ISLAM

THE USAID funded public private partnership (PPP) project was launched in Bangladesh in August. This project is meant to provide a sustainable guideline, creating a link between the public authority and the private body of the veterinary sector to protect animal diseases. This movement will bring together the public and the private sector in creating a better veterinary service for the nation. It also aims to focus on the strengths and the weaknesses of both the sectors. Development of guidelines for bio-security at commercial poultry farms, using the strength of both the sectors, will be considered a huge achievement of the project.

The vital component of this project is

a strong public veterinary service that can provide vision and leadership in national animal health issues and implement prevention and control activities along with the private sector.

The second important component is the setting up of an adequate open platform to facilitate the development of constructive collaboration between the public and private sectors and sub-sectors.

The third component is strengthening of the private poultry associations to that they can provide technical services to their members, coordinate aid from the government and donors as well, as advocate for the fair and equitable application of regulations aimed at improving public health.

Confronting the limitations of the

public bodies and the capacity of the private sector in overcoming those limitations in the veterinary sector in Bangladesh, this project emphasises creation of a bridge between these two sectors. The roles of the stakeholders in controlling HPAIN H5N1 and other animal diseases, as well as involvement in poultry production and the marketing chains, will be assessed, clearly defined and distributed as agreed upon in this process.

The Food and Agriculture Organization (Fao) of the United Nations leads international efforts to defeat hunger. Serving both developed and developing countries, Fao acts as a neutral forum where all nations meet as equals to negotiate agreement and debate policy. Fao is also a source of knowledge and information. Fao helps developing countries and countries in modernising and improving agriculture, forestry and fisheries practices, and ensuring good nutrition for all. Since its founding in 1945, Fao has focused special attention on developing rural areas, home to 70 percent of the world's poor and hungry people.

"The concept of PPP is really not new to us. We have bridges in the country as active examples of PPP, airports are being built through PPP, and it is considered these days as a very powerful tool for all developing nations like Bangladesh. We just hope to establish a similar replicable output for the veterinary/livestock sector here," said Mr. Ishtiaq Hossain, the PPP National consultant of Avian Influenza Technical Unit (AITU) of Fao while talking about the project.

In a series of steps in developing strong communication platforms between the public and private sectors, this project is now focused on bringing the people who actually face the tumbleweed in a close interaction. "The objective is also to obtain a quantitative set of roles for delegation at this time. How this can be implemented will follow," says Ishtiaq. Also, a "Guidelines for Bio-security in Commercial Poultry in Bangladesh" is in the pipeline.

The unit overseeing the project comprises of some very well known resource people from the agricultural universities, the department of livestock, and



PPP promotes progress.

international consultants who have been active in the development sector for quite a while now. Already halfway there, the PPP project people of Fao

believe that they will definitely succeed with strong teamwork and communications.

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