

# FIFTH AMENDMENT TO CONSTITUTION

## High Court verdict beyond jurisdiction: TH Khan

STAFF CORRESPONDENT

Advocate TH Khan yesterday told the Appellate Division of the Supreme Court (SC) that the High Court (HC) verdict that nullified the fifth amendment to the constitution of Bangladesh was beyond its (HC) jurisdiction, since the Appellate Division had earlier in different verdicts legitimated this amendment.

The amendment had legitimated all governments that had been in power following the coup of August 15, 1975 till April 9, 1979 including late president Ziaur Rahman's ascension to the presidency.

Upon a writ petition, on August 29, 2005 the HC in a landmark verdict declared illegal and void this amendment, rendering illegal the regimes of Khandaker Moshataque Ahmed, Abu Sadaat Mohammad Sayem, and Maj Gen Ziaur Rahman between August 15, 1975 and April 9, 1979.

TH Khan argued that as per article 111 of the constitution, any decision of the Appellate Division is a binding order for all the courts including the HC, and that is

why the HC had no jurisdiction to accept the writ petition that challenged the legality of the fifth amendment and declare the amendment illegal.

He said it while placing arguments on behalf of BNP Secretary General Khandaker Delwar Hossain before the apex court on the first day of the hearing on the leave to appeal petitions challenging the HC verdict.

Citing the SC verdicts in some cases including the Nasiruddin Versus State Case, TH Khan said the then SC in 1980 had validated the rules of martial law administrations and their orders and regulations, which were approved by the fifth amendment.

The executive, judiciary, legislative and the servants of the republic had accepted those regulations and orders, he said.

The counsel said a legal parliament had passed the fifth amendment, and the HC cannot interfere the acts of the parliament.

Only the parliament can repeal any amendment to the constitution of the republic, he added.

The six-member full bench of the Appellate Division, headed by Chief Justice Md Tafazzul Islam, yesterday adjourned the first day's hearing on leave-to-appeal petitions, and fixed January 21 for further hearing.

BNP Secretary General Khandaker Delwar Hossain and three SC lawyers Tajul Islam, Kamruzzaman Bhuiyan, and Munshi Ahsan Kabir filed the petitions with the SC in May last year.

On January 3 this year, the Appellate Division lifted its four-year old stay order on the HC verdict and also allowed withdrawal by the incumbent government and Muktiyoddha Kalyan Trust of two leave-to-appeal petitions against the HC verdict.

Masudul Alam on behalf of Bangladesh Italian Marble Works Company filed the writ petition in 1994 to reclaim ownership of Moon Cinema Hall, which the government right after the country's independence announced as abandoned property and awarded to Muktiyoddha Kalyan Trust.

The petition also challenged the legality of the Martial Law Regulation of 1977.



PHOTO: STAR  
Khusi Kabir of Nijera Kari speaks at a roundtable on 'Vested Property Return (amended) Act-2009: Expectation and Achievement' at the Supreme Court Bar Association Bhaban yesterday. Sitting from left are Ayesha Khanam, Md Helaluddin, Jahidul Bari and Harendranath Nandi. Democratic Lawyers Association of Bangladesh organised the event.

## Call to address vested property issue soon

STAFF CORRESPONDENT

Speakers at a roundtable yesterday called on the government to resolve various problems relating to vested properties immediately to establish a liberal democratic and secular Bangladesh.

They also placed a five-point demand to this end.

The demands include finalisation of definition of vested property, gazette notification of enlisted vested prop-

erties in accordance with the census list and formation of tribunal at district level.

The Democratic Lawyers Association of Bangladesh (DLAB) organised the roundtable titled 'Vested Property Return (amended) Act-2009: Expectation and Achievement' at the Supreme Court Bar Association Bhaban yesterday.

DLAB President Harendranath Nandi said that according to a survey, about 12

lakh Hindu families have lost 26 lakh acres of lands during the period from 1965 to 2006.

The issue of vested properties should be resolved immediately to end discrimination against a community, he added.

Gono Forum leader Pankaj Bhattacharya, Mahila Parishad president Ayesha Khanam, Nijera Kari Executive Director Khusi Kabir and DLAB vice president Advocate Subrata Chowdhury also spoke.

## Dilip's speech expunged from JS proceedings

STAFF CORRESPONDENT

Speaker Abdul Hamid yesterday expunged industries minister's speech from parliament proceedings, as the constitution does not allow his participation in the condolence motion other than something related to his ministry.

On Sunday Industries Minister Dilip Barua, a technocrat minister, participated in the House discussion on condolence motion on Jyoti Basu's death.

Speaker Hamid said, "The chief whip sent me a list of participants in the discussion. As per the list, I gave floor to the industries minister. Then I instantly remembered the constitutional provision but did not hinder the speech to keep the solemnity of the House."

"Today I expunge his speech from parliament proceedings," he said.

During the point of order session, Jatiya Party lawmaker Mujib-ul-Haque pointed it out and asked the speaker to expunge Dilip Barua's speech.

He said, "If this speech is not expunged it will remain as a bad precedent in the parliament proceedings."

Earlier on November 4, the speaker completely expunged Jute and Textile Minister Abdul Latif Siddiqui's October 12 statement from parliament proceedings.

## 9th anniversary of Paltan bomb blast tragedy today

STAFF CORRESPONDENT

Today is the ninth anniversary of Paltan bomb blast tragedy.

On this day in 2001, a powerful bomb was exploded at a rally of Communist Party of Bangladesh (CPB) at Paltan Maidan in the city, leaving five people killed and 25 others injured.

The dead were CPB activists Himangshu Mandal, Abdul Mazid, Abul Hossain Hashem, Bipradas and Mokhtar Hossain Badal.

To mark the day, CPB President Manzurul Ahsan Khan and General Secretary Mujahidul Islam Keller in a statement said the killers in a planned way took away many lives by making bombs and grenade attacks one after another across the country as the trial of Paltan blast tragedy could not be held immediately.

They expressed resentment over the matter of not arresting and punishing the culprits and said that though the news of taking Mufti Hannan on remand in the Paltan case was published in the newspapers but the countrymen are still in the dark about the next steps.

They demanded immediate trial of all bomb and grenade attacks, including the Paltan bomb blast, through proper investigations.

On the occasion, different political parties, including CPB, will pay their tributes at the temporary memorial in front of CPB's central office in the city between 11:00am and 12:00 noon.

CPB will also organise a meeting at Muktangan.



PHOTO: PID  
Prime Minister Sheikh Hasina consoles bereaved family members of former chief minister of West Bengal Jyoti Basu at Bidhan Sabha Bhaban in Kolkata yesterday. (Story on Page 1)

## COPENHAGEN CLIMATE CONFERENCE OUTCOME

# Bangladesh not happy

Says permanent representative to UN

BSS, Dhaka

Bangladesh's Permanent Representative to the United Nations Dr AK Abdul Momen has said though not frustrated Dhaka is not fully satisfied with the outcome of the Copenhagen climate conference.

"Now we will have to work to

agree for an international treaty in Mexico in 2010," he said at a conference on 'Climate Change and Impacts on Development' organised by UNFPA, UNICEF and WFP at the UN headquarters in New York, said an official release here yesterday.

He said the progress of Bangladesh in attaining the UN

Millennium Goals (MDGs) is continuing.

The Bangladesh envoy addressed the conference as the newly elected chairman of the UNICEF executive board.

Besides the UNICEF, Bangladesh is working with efficiency in 24 other bodies of the UN.

## Jamaat plans movement

FROM PAGE 16

conspiracy to destroy the country's economy once and for all. This will make our country dependent and turn it into an open market for India."

The Islamist political party accused that the government moved to scrap the Fifth Amendment of the constitution to restore secularism in the state principle instead of keeping faith in almighty Allah. It also criticised the government for imposing an education policy that goes against religion.

Jamaat Ameer Maulana Matur Rahman Nizami alleged that a "secret security deal" was signed during the prime minister's visit to India. He demanded clarification on the matter from the government.

He claimed that all the three agreements with India were signed preserving India's interest.

He said, "We are left with no choice but to move against the

government. We urge all political parties, Olama-Mashaek (Islamic leaders), professionals, intellectuals, students and workers to join us in waging a tough movement."

On secret deal, Nizami said he came to know about it from a newspaper. "A secret deal has been sealed between the two governments and, therefore, it is not possible for others to know about it," said Nizami.

On joint movement with the other components of BNP-led four-party alliance Nizami said, "Let us take the initiative. Then we will see with whom and how the alliance forms. But we will keep communication with the other components of the four-party alliance."

On returning to the parliament the Jamaat chief echoed BNP's stance saying that there is no such atmosphere in the parliament yet. The government has to

create an environment first.

Earlier, BNP Chairperson Khaleda Zia at a press conference on Sunday following the same allegation and urged people and political parties to wage a movement against the government.

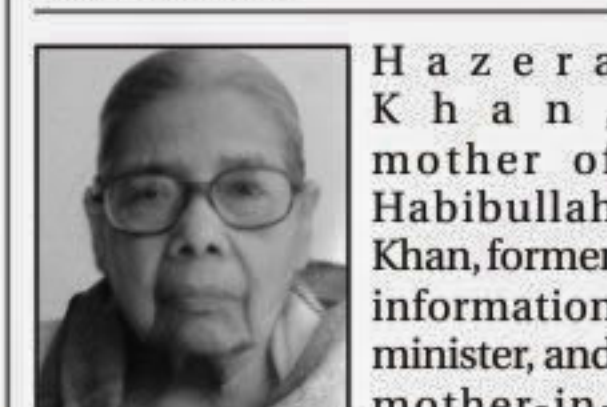
In his written statement, former industries minister Nizami said, "Allowing India to use our seaports will create security threat for the country. Indian army will intrude into Bangladesh in the name of securing transport of goods. This will put our independence and security at risk."

"It is certain that India will use Chittagong and Mongla ports for military purposes if a conflict starts between India and China," he said.

The Jamaat chief claimed that whatever had happened during the prime minister's tour went in India's favour and against Bangladesh.

## Obituary

METRO DESK



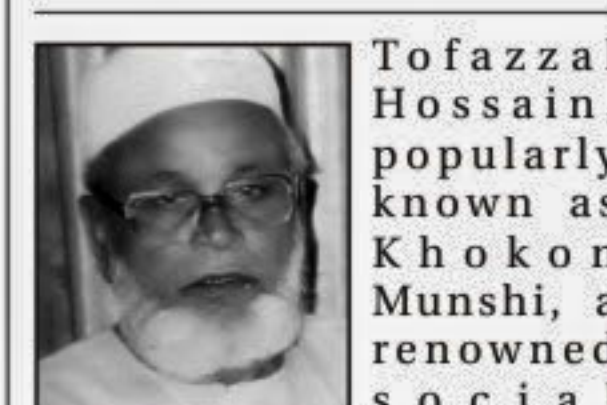
Hazera Khan, mother of Habibullah Khan, former information minister, and mother-in-law of Salma Khan, a former ambassador, passed away at their Gulshan residence in the city yesterday at the age of 90, says a press release.

Her namaz-e-janaza will be held at Gulshan Central Mosque (Azad Mosque) after Zohr prayers today.

She left behind her only son, daughter-in-law and granddaughter as well as a host of relatives and well-wishers to mourn her death.

## Tofazzal Hossain

OUR CORRESPONDENT, Manikganj



Tofazzal Hossain, popularly known as Khokon Munshi, a renowned social

worker, passed away at his residence at Dashchira village in Shiblalaya on Monday at the age of 88.

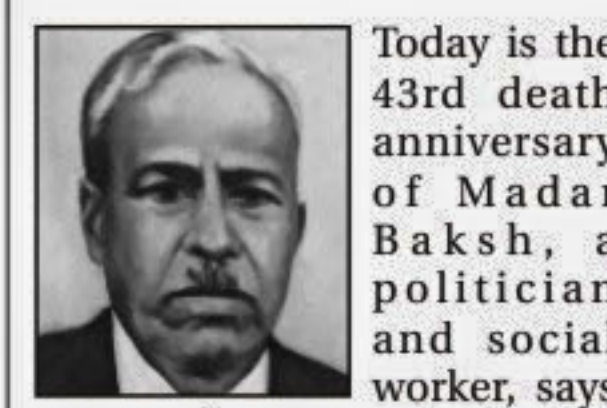
He left behind his wife, four sons and one daughter to mourn his death. Motiur Rahman, Manikganj district

correspondent of the daily Jugantar, is one of his sons.

His qulhawani will be held at his residence after Juma prayers on Friday.

## Death anniversary

STAFF CORRESPONDENT



Today is the 43rd death anniversary of Madar Baksh, a politician and social worker, says

a press release. He was also a member of Bengal Legislative Assembly. He was one of those who took initiative to establish the Rajshahi University.

On the occasion, milad mahfil, placing wreaths at his portrait and discussion will be held in Natore and Rajshahi.

A discussion will also be held at Madar Baksh Hall of Rajshahi University (RU) at 4:00pm with RU Vice Chancellor Prof M Abdus Sobhan in the chair.

## Schoolgirl commits suicide

STAFF CORRESPONDENT

A schoolgirl committed suicide in the city's Shyamoli area yesterday.

Police in the afternoon recovered the body of Nashpia Ahmed Akand Pinky, a student of Shyamoli Ideal School and College, hanging from the ceiling fan of her bedroom.

They also recovered a letter Pinky had written before committing suicide.

Sub-Inspector ASM Sayed of Sher-e-Bangla Nagar Police Station quoting the letter said one Murad, a driver who also resides in the area, verbally abused Pinky and slapped her when she went to a nearby pharmacy to buy some medicines at about 1:00pm.

Pinky was residing at the house of one of her paternal uncles, Abdullah Akand.

## Cellphone sets worth Tk 20 lakh recovered at ZIA

STAFF CORRESPONDENT

Customs officials recovered 600 pieces of cellphone sets from a travel bag left abandoned near a departure gate of terminal building at Zia International Airport (ZIA) yesterday.

Assistant Commissioner (AC) Mohammad Salahuddin Ripon told The Daily Star that as the customs officials passing the departure gate No. 4 around 8:00am, they found the abandoned bag on the spot.

They found 600 pieces of China-made Nokia cellphone sets that would be worth around Tk 20 lakh.

They also detained Indian national Saad as he was present near the bag, the AC said, adding that they had freed Saad after taking an undertaking from him as they failed to prove him as its owner due to lack of tag in it.

Ripon said the bag was brought from Hong Kong by a flight on Monday night.

**DHAKA TODAY**

**Roundtable**  
Domestic Workers Rights Network with support of the ILO will organise a roundtable on 'Code of conduct to ensure rights for the domestic workers'. Venue: Institution of Diploma Engineers building. Time: 11:00am.

**Workshop**  
International Tobacco Control Policy Evaluation Project of Waterloo University and Bureau of Economic Research of Dhaka University jointly organise a workshop on tobacco contrails policies in Bangladesh. Venue: DRU Liberation War Museum. Time: 11:00am. ASK and Steps Towards Development organise the event.

**Roundtable**  
Save the Environment Movement and ITN Department of BUET jointly organise a roundtable on disposal and management of waste of Buriganga. Venue: ITN conference room, Buet. Time: 11:00am.

**WEATHER TODAY**

**Dry weather likely**

UNB, Dhaka

Weather is likely to remain dry with partly cloudy sky over the country in the next 12 hours until 6:00pm today.

Prevailing mild cold wave over Ishwardi and Chuadanga may continue and further spread over Rajshahi and Khulna divisions, met office said.

Moderate to thick fog may occur over the country during the period.

Night temperature may fall slightly over the country, it said.

**The sun sets in the capital at 5:36pm today and rises at 6:43am tomorrow.**

Country's highest temperature 23.5 degrees Celsius was recorded yesterday at Cox's Bazar and lowest 9.1 degrees Celsius at Chuadanga.

Highest and lowest temperature and humidity recorded in some major cities and towns yesterday were:

City/Town	Temperature in Celsius		Humidity in percentage	
	Max	Min	Morning	Evening
Dhaka	16.7	12.9	97	91
Chittagong	21.0	14.9	78	78
Rajshahi	19.2	10.4	95	78
Khulna	20.0	12.4	97	83
Barisal	16.4	11.5	94	85
Sylhet	21.8	15.4	97	89
Cox's Bazar	23.5	15.2	74	78



PHOTO: COURTESY  
Ibrahim Cardiac Hospital and Research Institute yesterday inaugurated Flat Panel Digital Cath Lab to conduct angiogram, angioplasty and implant pacemaker with dynamic and static x-ray images at a high image quality. Social Welfare Minister Enamul Haque Mostafa Shaheed, Prof Mahmudur Rahman, President of Bangladesh Diabetic Association Prof AK Azad Khan and Secretary General Muhammad Saif Uddin were present at the inaugural ceremony at the Birdem auditorium in the city.

## India take command Bitter cold takes toll

FROM PAGE 1

Mishra accompanied him with 24.

Earlier two Bangladesh lower-order batsmen Mahmudullah and Mushfiqur

lifted the hosts from dire straits as the Tigers were reeling at 98 for six at one stage after the dismissals of Mohammad Ashraf (2), Shakib Al Hasan (17) and Rokibul Hasan (17) in the first session.

The Bangladesh top-order failed to capitalise on the good batting condition to keep the pressure up on the world's number one team when the day's play began 90 minutes after scheduled start due to dense fog in the morning.

Lanky Indian pacesman Ishant Sharma gave the early breakthrough for the visitors by removing a shaky Ashraf while Zaheer Khan took the wicket of Bangladesh skipper

Shakib and another pacer Sreesanth captured Rokibul as Bangladesh went into lunch with the scoreboard reading 118 for six.

The resistance finally came from Mahmudullah and Mushfiqur who played brilliantly to frustrate the Indian attack before the latter played a rash shot to walk to the pavilion making 44 off 104 balls that featured six sweetly timed boundaries.

Mahmudullah continued his recent good form by making his maiden Test half-century. During his 108-ball 69, the right-hander clobbered eleven boundaries and his effort at least helped his side post a respectable total.

Leg-spinner Mishra wrapped up the tail by taking three wickets for 66 runs while Zaheer Khan, who caused the top-order damage, took three for 54 runs.

FROM PAGE 1  
yesterday, while several hundred others fell ill, reports our Sathkitha correspondent.

The homeless, slum dwellers and those living in chars suffer most.

The lowest temperature in the country yesterday was 9.1 degrees Celsius in Chuadanga, said a meteorologist.

In the capital, the lowest and highest temperatures were 12.9 degrees and 16.7 degrees Celsius.

Hospitals in Dhaka city are facing a rush of children seeking treatment for cold-related diseases.

Laila Yeasmin of paediatrics department at Dhaka Medical College and Hospital said, "Malnutrition plays a great role here. Children coming to our hospital are mostly from slums or chars areas and from low-income

group. They don't get proper food and clothing, and that is why they suffer most."

Most of the child patients are suffering from respiratory tract infections. Coughing and runny nose are the prevalent symptoms, she mentioned.

Mother of Nasima, an 11-month baby who came to the DMCH outdoors from Kamrangir Char, said the child caught cold last week and developed breathing problems Monday night.

The number of patients at Dhaka Shishu Hospital too has increased in last few days. Prabir Kumar, resident physician of the hospital, said, "Normally, we get around 500 patients a day. But for the last few days the number has been over 600, and most of them are aged between six months and two years."