The first cruel attack: 1972-1975

Soon after the Constitution became effective in December 1972, the first amendment was brought in July 1973 by the first parliament, empowering the government with sweeping authority to try war criminals by introducing any law regardless of its inconsistency with any part of the Constitution.

The same year, the same parliament passed the second amendment act in September, introducing a provision for declaring a state of emergency by the president, which was not included in the original Constitution. The amendment also empowered the president to suspend fundamental rights during emergencies.

Soon after the second amendment, the then president Mohammad Mohammadullah issued a proclamation of emergency in December 1974, and suspended many fundamental rights of citizens, on advice of the then Prime Minister Bangabandhu Sheikh Mujibur Rahman. The emergency was lifted five years later in November 1979.

According to the original Constitution, the country was to always have a functioning elected parliament. But over the years, many of the powers of the parliament were curbed and it has largely lost its pre-eminence due to some changes brought to the Constitution.

In November 1974, the first parliament brought in the third amendment as well, changing Article 2 concerning the territory of Bangladesh. The amendment was made to implement the treaty signed between Bangladesh and India in July 1974 on demarcation of border areas and exchange of enclaves.

The first Jatiya Sangsad constituted through the maiden parliamentary election in the newly independent country in 1973, also launched the first cruel attack on the Constitution through passing the fourth amendment act in January 1975.

"The first three amendments do not appear to have altered the basic structure of the Constitution. But the fourth amendment of the Constitution clearly altered the basic structure of the Constitution," the Appellate Division of Supreme Court observed in the case of *Hamidul Huq Chowdhury v Bangladesh*.

Analysing the impact of the fourth amendment, former Chief Justice Mustafa Kamal in his book titled *Bangladesh Constitution: Trends and Issues*, said the amendment changed the basic structure of the Constitution. He said the fourth amendment introduced a presidential form of government led by an all-powerful president, abolishing the parliamentary form of government. "The fourth amendment made a drastic inroad into the independence and jurisdiction of judiciary. A one-party state was established," Justice Kamal added.

It also forced elected members of the first parliament to join the only national party within a time specified by the president to save their memberships. One could not even contest in presidential or parliamentary elections if he or she was not nominated by the national party titled Bangladesh Krishak Sramik Awami League (BKSAL). The fourth amendment also empowered the president to issue an order to dissolve all political parties in the country, and take necessary steps to form the national party, including determining all matters relating to the nomenclature, programme, membership, organisation, discipline, finance, and function of the party. The amendment also allowed the executive branch of the state to control the lower judiciary.

The then government however did not get much time to enforce the fourth amendment, as on the morning of August 15, 1975, new president Bangabandhu Sheikh Mujibur Rahman was assassinated and his government was overthrown. The newborn nation plunged into a disaster and constitutional crisis just over three and a half years into the bloody struggle which put it on the world map.

A dark episode: 1975-1979

With the support of the killers of the August 15 assassination, Khandaker Moshtaque Ahmed, who was a minister of Sheikh Mujibur Rahman's government, placed the whole country under martial law and grabbed state power, without allowing the then vice-president to act as the president as stipulated in the Constitution in the context of absence of the president.

By a proclamation issued by Moshtaque on