

Re-fixing the trampled constitution

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It was the Awami League-led government of Bangabandhu Sheikh Mujibur Rahman that framed our country's constitution in 1972, immediately after emergence of Bangladesh as an independent nation in the world map. After around four decades, it is now the AL-led government of Bangabandhu's daughter Sheikh Hasina that has taken steps to re-fix the country's supreme charter, which lost its original track due to cruel attacks on it by successive political governments and military rulers as well.

However, in this move Sheikh Hasina's government will have to face tremendous challenges and pressure to successfully accomplish the mission as the current political situation is completely opposite to the one that existed four decades ago.

During the framing of the constitution, Bangabandhu was the supreme leader of newly independent Bangladesh. His leadership was unchallenged in the political arena. The polity was not so bitterly divided, like it is at present, and the defeated forces of 1971 were unable to openly take any stance against the then ruling AL.

Therefore, the then government did not need to hesitate to take a bold stance against use of religion in politics in light of the bitter experience of the Pakistan regime. The use of religion in politics was constitutionally banned and secularism was accepted in the constitution as one of the four fundamental state principles. The parliament that represents the will of people got pre-eminence in the constitution of 1972.

But after around four decades, things took a very complicated shape. The constitution of 1972 lost its original character. Alarming rise of anti-liberation forces, pervasive use of religion in politics, acute division and confrontational nature of political culture, and some other factors including changing world order have made the current situation very critical.

Given the situation, the AL-led

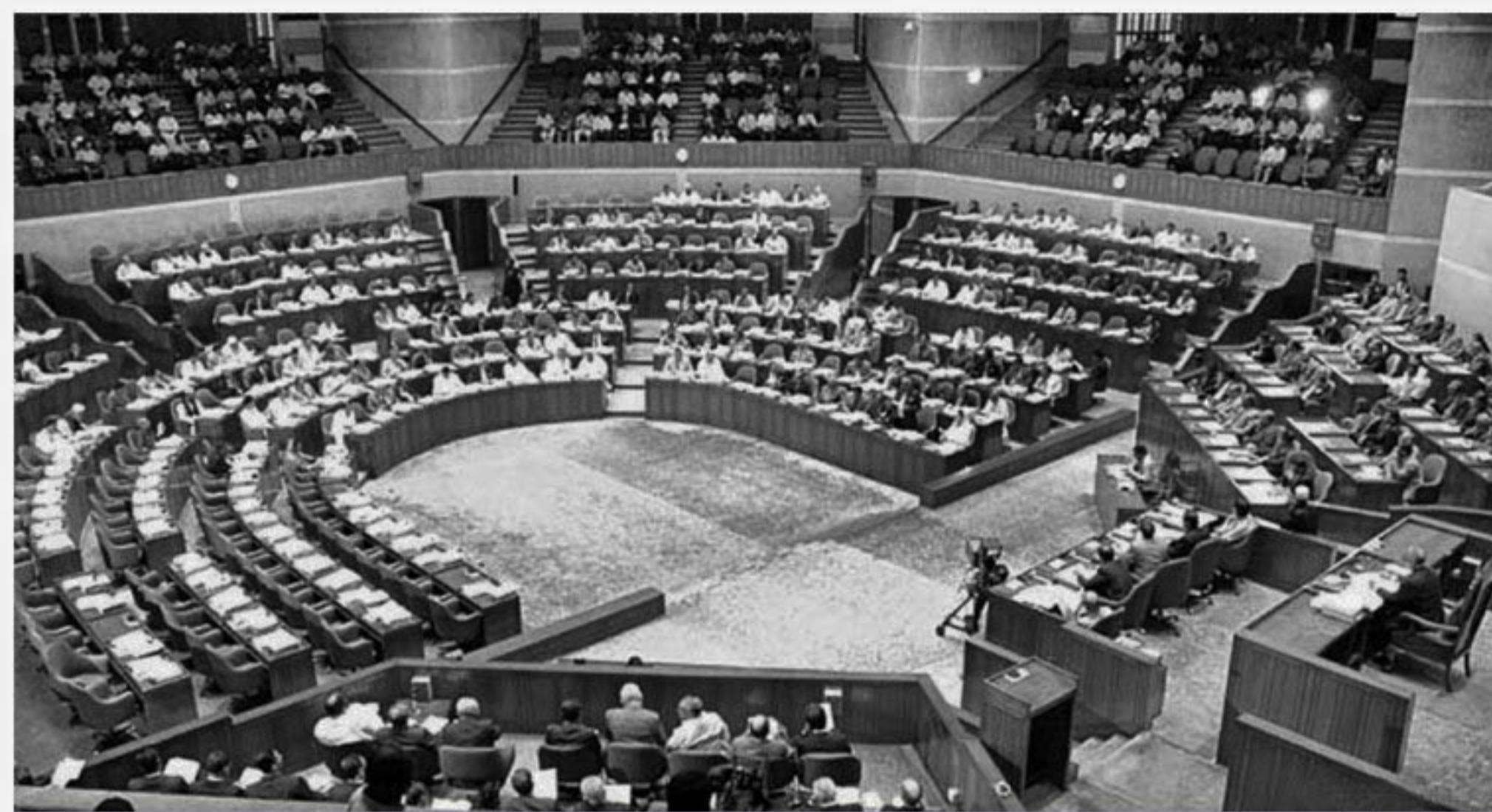
government in its effort to re-fix the constitution will have to face a strong challenge to address some crucial and controversial issues including the status of Islam as state religion, the caretaker government system, restoration of pre-eminence of parliament by reinstating the original Article 96, the state of emergency and transitional clauses in the constitution and stringent provision to prevent extra-constitutional takeover.

The 15-member parliamentary special committee on constitution amendment at a meeting with Prime Minister Sheikh Hasina on February 8 discussed some of the crucial and controversial issues. Hasina, also leader of the House, who piloted the motion in parliament in last July to form the special committee, asked them to work with full freedom to put forward proposals to settle amicably the constitutional issues.

Now it is the huge responsibility of the special committee to find ways to settle the crucial constitutional issues in a practical way, keeping intact the basic principles of the Liberation War and basic spirit of the original constitution of 1972.

After some discussions of the special committee, it is already clear that the one of the biggest challenges faced by the committee is to uphold secularism in the constitution without offering the opposition camp any issue to launch anti-government agitation by using people's religious sentiment.

In the original constitution's preamble and Article 8, secularism was identified as one of the fundamental principles of the state, and Article 12 gave a guideline for implementing secularism.



STAR

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With martial law proclamations, the first martial law regime scrapped secularism from the preamble of the constitution, and replaced it with "...absolute trust and faith in Almighty Allah," while deleting Article 12 altogether and also a proviso of Article 38 that imposed ban on the use of religion for political purpose.

The first martial law regime gave birth to a political party, Bangladesh Nationalist Party (BNP), which is now main rival of the AL. The then changes to the constitution allowed anti-liberation forces including Bangladesh Jamaat-e-Islami and others to resume their political activities and use religion for political purpose.

BNP and Jamaat joined hands and formed the four party electoral alliance before the 2001 parliamentary elections. Thus, founder of BNP, General Ziaur Rahman allowed Jamaat and other fundamentalist forces to resume politics by lifting the constitutional ban. And his

widow Khaleda Zia, who is chief of BNP, let Jamaat taste state power between 2001 and 2006.

The anti-liberation and Islamic fundamentalist forces got fresh blood during the second martial law regime led by General Ershad, who later made Islam the state religion in 1988 by amending the constitution.

The nullification of the 5th amendment that ratified and validated the changes to the constitution during the first martial law regime opens the way for restoring secularism. But that opportunity is contradicted by the 8th amendment of 1988, which made Islam the state religion, and still remains in force, in addition to Bismillahir Rahmanir Rahim inserted above the preamble of the constitution by the first martial law regime.

In the wake of the cruel political reality, the parliamentary special committee has already been compelled to take the prevailing situation into consideration and may not

take strong stance to uphold secularism in the constitution. Its present stance predicts it may not take any move to this end that will allow BNP-Jamaat-e-Islami led opposition camp to portray the ruling AL-led alliance as an "anti-Islamic force" and wage agitation against the government.

The BNP has already registered its protest against the move to amend the constitution by refusing to nominate its representative to work in the special committee, and it will not take time to wage movement against the government if it gets such a hot issue of religion.

Moreover, the AL has already discarded to large extent its secular ideology in practice and also used religion in recent past to gain political benefits by countering its political rivals and Islamic fundamentalist forces. So, in that case, the special committee might come up with an alternative proposal to uphold secularism with keeping the status of Islam as state religion.

The special committee is likely to address another crucial issue -- the caretaker government system, which was introduced by the 13th amendment in 1996 against a backdrop of agitation by AL and an electoral stalemate between AL and BNP. Introduction of the system forces the parliament's existence to cease for at least three months prior to a parliamentary election, and during this period, the country loses its republican character as it is governed by an unelected government.

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sure on it. Moreover, the system has been mired in deep controversy during and before the immediate past caretaker government's nearly two year's rule.

But the special committee will have to settle the issue in a practical way, without thinking to abolish the caretaker government system, as the opposition will not accept it, by only strengthening the Election Commission to hold the parliamentary polls under the political government regime.

Another burning issue is restoration of pre-eminence of parliament by reinstating the original Article 96. The original constitution of 1972 ensured the parliament's supremacy over the executive and judicial branches of the state.

The legislature was empowered to remove constitutional officers such as judges of Supreme Court, the chief election commissioner, election commissioners, the chairman and members of the Public Service Commission, and the comptroller and auditor general -- on grounds of misconduct and incapacity.

But its authority to do so is no more as the Supreme Judicial Council, a new procedure introduced by the first martial law regime, now exercises the power to remove the constitutional officers.

The Supreme Court recently declared illegal and void the constitution's 5th amendment that ratified all actions of the first military regime between August 15, 1975 and April 9, 1979. The judgment however condoned the introduction of the Supreme Judicial Council, to prevent revival of the relevant provision of the 4th amendment, which empowered the president to exercise the authority.

It is now expected that the special committee will consider other necessary changes in the constitution, so the House is able to gradually regain its original power and pre-eminence. And despite some difficulties and challenges, it is a golden opportunity for the AL-led government to re-fix the country's supreme charter in a practical way by taking the people into confidence.

The writer is Senior Reporter of The Daily Star.

Slow to react to the African and Mideast crises

EDITORIAL DESK, THE NATION

The Thai foreign affairs ministry and its embassies worldwide must come up with a comprehensive logistic and transport plan to evacuate overseas Thais in case of emergencies. The chaos in Libya and the earthquake in Christchurch, New Zealand lend further weight to the need for a strategy to cope with the unexpected and to provide security measures for Thais living and working overseas.

As it has turned out, Thai officials do not have the slightest idea over how to deal with crisis situations in foreign countries where Thais are working, living or studying. The crises in the Arab world, which started off in Tunisia before spreading to Egypt and other North African and Middle-Eastern countries, has a contagion effect.

Libya is hitting the world headlines following news reports of leader Mu'ammur Gadhafi relying on heavy force to quash protesters, resulting in numerous deaths. Thai officials and diplomats should have sensed the degree of turmoil and the spillover effect, which could endanger the lives and security of Thai workers, students or tourists. And they should have had a contingency plan to hand in the event that a mass evacuation of overseas Thais is needed amid the upheavals.

against the Hosni Mubarak regime in Egypt, Thai students were affected by the protests and looting. It appears that calm has returned to Egypt for now. But there is no guarantee that the new government can bring the situation completely under control because the economic, food and unemployment crises in Egypt are structural problems. So the Egyptian crisis could flare up again at any time.

Across the Mediterranean,

There have been reports that Libya's east is no longer under Gadhafi's control while the capital and the western province appear to be still under the control of Gadhafi loyalists.

Greece is facing revolt on the streets as youths come out to vent their anger against the austerity measures of the government, which has received a financial bail-out from the European Union and the International Monetary Fund. Libya should be a good case study for further preparation. Right now there are some 23,000 Thais working in the North African country, rich with oil. The regime is under heavy pres-

sure but Gadhafi has responded in kind, with brutal suppression. There was a report that two air force pilots - one from the leader's own tribe - parachuted out of their plane and let it crash into the eastern Libyan desert rather than follow orders to bomb an opposition-held city.

There have been reports that Libya's east is no longer under Gadhafi's control while the capital and the western province appear to be still under the

control of Gadhafi loyalists. "The support of the different tribes to the population has played a key role in accelerating these developments as some of the most important tribes including Al Warfallah, Tarhuna, Al Zuwayya joined protesters. The position of the Makarha tribe which is concentrated in the country's western province will be key to how events unfold there. The Al Gaddafa tribe, to which Gadhafi belongs, is however very close to the regime

and its loyalty could result in violent clashes with the rest of the population. Note that the tribal structure of Libyan society represents a key difference with Tunisia and Egypt where the army played an important role in accelerating a regime change," JP Morgan said in a report.

As the situation develops, This working in Libya are under serious threat. They could be victims of haphazard suppression which takes place during the evening or night time. There are some 9,000 Thais working in Tripoli, the capital, alone. Many have been harassed and robbed of their belongings.

It was not until today that Prime Minister Abhisit Vejjajiva came up with an evacuation plan. He said Thailand plans to send ships to Libya to evacuate the Thai workers there. The timing of the evacuation remains unclear as the port is far from where many of the Thais are working, and travelling in Libya is unsafe, he said. By Wednesday, some 600 Thais had been evacuated by road to neighbouring Tunisia. Four ships have been chartered to evacuate Thai nationals to Malta.

However, there must be a more comprehensive plan to evacuate all Thai nationals out of North Africa and the Middle East if need be.

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The Danish cake mystery



ASIANS ate our cake! That was the complaint from the Danish People's Party, an anti-immigrant group.

It said the Koge Hospital's maternity ward used to give out free cake in the waiting room, but with so many foreigners with huge families grabbing at it, the handout was canceled.

A spate of shock stories like that led to tough anti-foreigner laws being introduced in Denmark, where residents are legally required to eat two kilos of pastries a day.

I heard about this from reader Kim Parfitt, who's sad about her country's hostility to people from overseas. "I lost my ability to smile," she wrote. "My husband told me to write to you in the hopes that you could make me laugh."

I'd love to, Kim, but unfortunately, I just got back to my desk after spending the morning stealing cakes from hospitals with my 19 family members.

That's a joke. Believe me, no one would want to steal any food from a hospital in Asia. Hospitals are the leading cause of death. Suicides in this region don't jump off buildings. They eat three-course meals at the local infirmary for instant results.

By coincidence, I got a message about being nice to foreigners from reader Linda Rose in Sri Lanka: "Your car is German. Your vodka is Russian. Your pizza is Italian. Your kebab is Turkish. Your democracy is Greek.

Your coffee is Brazilian. Your movies are American. Your tea is Sri Lankan. Your shirt is Indian. Your oil is Saudi Arabian. Your electronics are Chinese, your numbers Arabic, and your letters Latin. So if your neighbor is an immigrant, why complain?"

That's neat, thanks, Linda. Talking of cultural friendship, I'll never forget the day friends at Metro News, a Hong Kong radio station, asked listeners to write in so they could see how far the signal went.

Staff got a long, handwritten letter from a listener in Azerbaijan. A Metro staff member read it out. It started as a deeply touching piece of fan mail, asking for souvenirs and photos of the presenters.

But on page two was a second request: "My other favorite hobby is collecting photos of nude Asian girls. Unfortunately, my collection is poor. My dream is to receive regularly such materials from Hong Kong. Could you help?"

The letter's cuteness-factor diminished dramatically. At the time, Metro spokesman Bob Palitz told me: "We decided we could not really help him with this. We are a radio station, after all. Perhaps we'll send him some recorded audio of nude women."

Anyway, the story about the missing cake in Denmark ended happily. Instead of getting angry, someone with a Muslim name sent a free cake to the office of the political party. Others copied the idea, and at last count, 500 cakes had been sent.

The politicians offered to forward them to the hospital in question, but they couldn't. It turned out the story was untrue. Koge Hospital doesn't have a maternity ward.

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