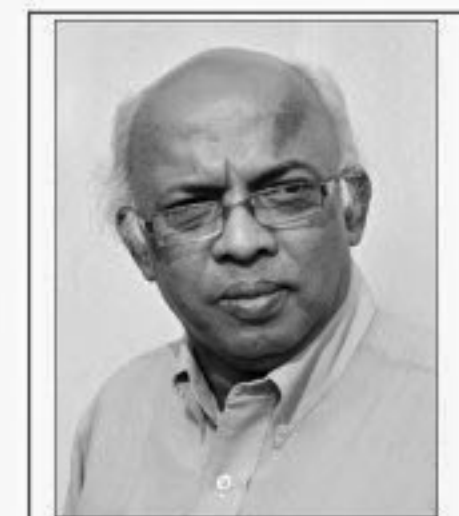


## GROUND REALITIES

# Speaking of the constitution . . .



SYED BADRUL AHSAN

**T**HE country is awash with talk of constitutional amendments. Whether you like it or not, there will soon

be a fifteenth amendment to Bangladesh's constitution, the better to restore and streamline the basic principles upon which the state ought to be conducting itself. Now, the constitution being a document we can ignore only at peril to our collective future, it would have helped if all political parties represented in Parliament had locked horns in order to break the deadlock now looming over us over this question of a new amendment.

Observe: the Bangladesh Nationalist Party has already served notice that no change can be brought about in the fundamental principles of the constitution as enshrined therein by the fifth amendment. Only a referendum, say its leading lights, can do that.

That referendum bit is somewhat understandable. But suggesting that the fifth amendment is or was a guarantor of fundamental constitutional principles is not. Indeed, the fifth amendment simply formalised the dictatorial fiat exercised in excising secularism and socialism from the constitution after the violent coups and counter-coups of August and November 1975. So what we have here is a spurious argument. The fifth amendment undermined the spirit of the Liberation War through making it possible for rightwing politics to encroach on Bengali statecraft.

Men who had once tried to murder Bangladesh in the womb

emerged from their lairs to preside over its fortunes. To sanction, therefore, an official end to the fifth amendment will be in the best interests of the people of this country. Ah, yes! When the BNP raises the question of a referendum over constitutional amendments, you could be inclined to raise the query of whether a referendum sanctified the fifth amendment to the constitution.

*Recommendations have been made, reservations have been voiced and clarity has wiped away certain misgivings that might arise if the upcoming amendment is not handled with care.*

It did not. And there we are.

But, to be sure, a constitution is no laughing matter. That ours has already undergone as many as fourteen amendments does not make us feel the least bit comfortable. When you have a republic that has been free for only forty years and yet has marched through a ubiquity of amendments to its basic document, you know very well just how tentative and unstable its politics has been. But let all that bad legacy now be put to an end.

We are quite cheered by the interaction between the special parliamentary committee on constitutional amendments and various political and social groups of society in recent weeks. Recommendations have been made, reservations have been voiced and clarity has wiped away certain misgivings that might arise if the upcoming amendment is not handled with care. We will wait to see if all this is reflected in the draft amendment. An issue of such grave import should not be left in the hands of the prime minister alone, for the simple reason that the opin-

ions of this prime minister, unless they take the broad future into consideration, just could leave the hands of future heads of government tied.

Yes, let there be, once all the intricate details are gone into vis-à-vis the forthcoming amendment, a referendum. It is those details which arouse our concern. The Awami League government proclaims at

and ratified in January 1975. Let there be no mistake here. Much as our hardline proponents of Awami League politics would like to project the changes of early 1975 as a Second Revolution, the reality is that the slide from multi-party to single-party politics, from cabinet government to an all-powerful presidency, from unfettered press freedom to controlled media was a severe jolt to democratic aspirations.

The fourth amendment was a blunder and those who advocated its passage in 1975 did so not with an eye to the future of the country but with the sole interest of remaining in the good books of Bangabandhu Sheikh Mujibur Rahman. In the end, they destroyed themselves. And they left Bangabandhu facing a *cul-de-sac*.

So when there is talk today of bringing in amendments to close the doors to any attempt at an extra-constitutional seizure of power by ambitious military officers, let there also be the proviso of stopping lawmakers elected to preserve democracy from appropriating to themselves the right to change the fundamental nature of the state by an eager exercise of their vote in Parliament. Regression is no progress.

The fourth amendment made Parliament subservient to the whims and wishes of the head of government. And despite all the political and constitutional changes brought in since then, this authoritarian nature of the presidential or prime ministerial office, as the case may be, has remained.

The state must begin anew with a clean slate. And then swiftly move on to all those bread-and-butter questions we need to answer.

The writer is Editor, Current Affairs, The Daily Star. E-mail: bahsantareq@yahoo.co.uk

## Supreme Court on CTG

*A case of confusion confounded*

A seven-member Appellate Division bench of the Supreme Court has ruled that the constitutional provision of a caretaker government (CTG) is illegal. In a judgment delivered yesterday on a petition filed in January 2000, the apex court declared the 13th amendment void and ultra vires of the constitution. More intriguingly, the court has observed that the next two parliamentary elections can be held under caretaker administrations. It has also made the point that Parliament may amend the constitution to exclude the provision of retired chief justices or judges of the Appellate Division taking over as heads of caretaker governments.

We are, to say the least, perplexed by the judgement because we are not quite sure what it says specifically. If the provision of a caretaker government is now deemed to be illegal, there can be no difficulty in understanding what the Supreme Court is saying. However, for the court to suggest at the same time that the next two elections, scheduled for 2013 and 2018, can be supervised by caretaker regimes in order to 'avoid chaos' only confounds the issue. At a time when various ideas are being mooted about the next caretaker government and politicians as well as civil society are engaged in a debate about the probable nature of it, the Supreme Court verdict only adds to the confusion. How can a provision deemed illegal be permitted to continue for two more elections? What is the guarantee that the elections conducted under the caretaker system in 2013 and 2018 will not become questionable under the law? Additionally, the SC view on judges in the caretaker system leaves quite a few questions to be answered.

We cannot but state the obvious here. In a political climate where politicians have always distrusted one another on the matter of elections, the caretaker system has ensured locally and globally credible free and fair elections in the country. The four caretaker governments we have had since 1991 are thus deserving of credit. An aberration was of course the lengthy tenure of the last such government. To ensure, however, that the experience is not repeated, the Supreme Court, rather than opening up a whole new controversy with its latest mixed-bag pronouncement, could simply have put a watertight cap on the caretaker system being in place for no more than ninety days.

## PM's concern over LDCs' woes

*Development partners should do more*

PRIME Minister Sheikh Hasina has stressed enhancing productive capacities and improving human resources to acquire benefit from globalization. She made the remark while addressing the UN summit of Least Developed Countries (LDCs) in Istanbul on Monday. She further urged all to abandon past prejudiced strategies and opt for a win-win situation benefiting all. She rightly pointed out that LDCs need to redouble efforts to sustain high levels of growth for long periods to accelerate development. For this the LDCs should get further support from development partners.

We could not agree more with the PM. Indeed, as the PM has indicated, although the LDCs have made significant progress in meeting Millennium Development Goals (MDGs), they could not match the progress the developing countries achieved in enhancing productive capacity and growth.

That the LDCs have not been able to eliminate poverty is a truth that needs no elaboration. Unsettled socio-political conditions are the main hindrances to macro-economic stability. Poor human resources capacity and inadequate access to trade and integration in the market of the developed countries are also reasons for the sluggish growth of the LDCs.

In spite of limitations in natural resources and lack of skilled manpower, Bangladesh has made considerable strides in alleviating poverty through its micro credit programs and transforming agriculture and the rural economy by integrating the domestic market.

We can do more with assistance from our development partners in enhancing our productive capacities and improve resources by receiving investment, manpower training and transfer of knowledge.

We look forward to reinforced cooperation between the LDCs and the development partners for a positive change

FAKHRUDDIN AHMED

**T**HE Bangladesh Supreme Court has upheld the High Court's verdict that Professor Yunus's removal from Grameen Bank is legal. So Professor Yunus has been permanently removed as the managing director of his brainchild, Grameen Bank. This is a sad day for Bangladesh.

The decision will embolden those who had always opposed Professor Yunus, such as the religious fundamentalists and others opposed to women's empowerment. It will dishearten the shareholders of the bank, the poor women of Bangladesh, who will see their bank deteriorate into an average bank of Bangladesh, rather than remaining a Nobel Prize winning institution it is.

The reticent majority of Bangladeshis, who had taken silent pride in Professor Yunus's monumental achievements, many intellectuals among them, will be crestfallen. They will have a hard time comprehending why all the machinery of the country's government was marshaled to bring down Bangladesh's brightest jewel.

There is a dichotomy in the way the Bangladeshi government and the rest of the world view Professor Yunus. To the capitalist and socialist world, and everything in between, Professor Yunus, through pioneering microcredit for the poor is a champion of the poor. Since most of the world's population is poor, he is the symbolic benefactor of the majority of the people on earth, and is a hero to them.

When Professor Yunus visits Mexico, poor peasants rush to touch him! He transcended his Bangladeshi credentials long ago and has become an iconic figure of the world. The world emulates, celebrates and glorifies him like no other person on earth.

To the Bangladeshi government, Muhammad Yunus is just another

Bangladeshi operating from a Spartan, non-air-conditioned office in measly Mirpur, pretending to be great!

Bangladesh is a poverty-stricken nation facing enormous challenges. Instead of tackling those challenges, it is astonishing how much time and resources the government wasted attempting to bring down the one person who has brought maximum honour to the nation.

Professor Muhammad Yunus is being "removed on a technicality." If, after hounding Professor Yunus for over two years, the best the government can come up with is a "technicality," it vividly demonstrates not only how irrational and hollow the government's misguided pursuit has

*If the government was smart, instead of hounding Professor Yunus, it would have appointed the Nobel Laureate Bangladesh's goodwill ambassador to the world and tapped into the enormous goodwill the world has for him.*

been, but also how scrupulously clean Professor Yunus is.

Foreign governments care deeply about Muhammad Yunus, whom they know very well and adore. The writer was surprised at how quickly every section of the civil society in America -- the press, ordinary Americans, prominent Americans and elected representatives -- reacted with universal repugnance at Professor Yunus's "removal." Elected governments gain admiration and legitimacy only when they act within the letter and spirit of the law, not when driven by rancour.

Bengalis embody two diametrically opposite character traits. The admirable one is generosity. A visitor to a Bengali household will insult the host if he refuses to eat something.

The darker trait is envy, which the first Bengali and Asian to win the

Nobel Prize (1913), Rabindranath Thakur, lamented about. Every Bengali knows this uncontrollable urge to pull someone down who is headed up. This urge unifies some Bengalis like nothing else.

The discourse about Professor Yunus has revealed that some Bangladeshis have not been able to exorcise their jealousy demons. Much more pleasure can be derived from praising someone than demonising him. The angels descend on a person being complimented while the devil envelops the person practicing envy. The whole world applauds executives who salute a Nobel Laureate. Perhaps Yunus should have been born in another country that was capable of appreciating his genius.

Many in the Bangladesh government do not seem to realise that Muhammad Yunus had flown out of their grasp long time ago. They may imprison his body, but his free spirit belongs to the whole world. Placing hurdles in Professor Yunus's way will only make him soar higher.

Unlike neighbouring Myanmar, Bangladesh has not closed its borders to the world. As a democracy, Bangladesh is plugged into the world in every way, and is susceptible to the world's adverse reaction. The civil society, the press and prominent citizens all over the world have reacted adversely to Professor Yunus's removal. Their governments will, too, because in civil societies governments act on public opinion.

The government of Bangladesh had garnered the goodwill of the world and America over the last two

years for the way it conducted its domestic and foreign policies. By treating Professor Yunus shabbily, in spite of repeated pleas not to do so, they have squandered most of it.

It is unwise to characterise US Assistant Secretary of State Robert Blake's comment that mistreatment of Professor Yunus will impact US-Bangladesh relations as his personal opinion. Top US diplomats' enunciation of American foreign policy is never a "personal opinion." Ninety-nine percent of expatriate Bangladeshis in America believe that the government of Bangladesh has abused the nation's only Nobel Laureate.

Surprisingly, leave alone resigning, no one in the government has taken any different view over the Yunus controversy. When they embark on or support unjust vendettas, not only nations, but also reputations of individuals responsible become affected internationally. The world is watching and taking notes.

If the government was smart, instead of hounding Professor Yunus, it would have appointed the Nobel Laureate Bangladesh's goodwill ambassador to the world and tapped into the enormous goodwill the world has for him. Harassing Professor Yunus will prove counter-productive. The ongoing protests against the current government at home and abroad will only intensify.

Detractors of Professor Yunus beware! His concept of social business is also a novel idea. Do not be surprised if somewhere down the line Professor Yunus becomes the only person ever to win the Nobel Prize for Peace twice.

Regardless of what the government of Bangladesh does, Professor Muhammad Yunus's place in history as one of the greatest men of the last one hundred years is very secure.

The writer is a Rhodes Scholar.

## THIS DAY IN HISTORY

May 11

**330** Byzantium is renamed Nova Roma during a dedication ceremony, but it is more popularly referred to as Constantinople.

**912** Alexander becomes Emperor of the Byzantine Empire.

**1857** Indian Mutiny: Indian rebels seize Delhi from the British.

**1944** World War II: The Allies begin a major offensive against the Axis Powers on the Gustav Line.

**1949** Israel joins the United Nations.

**1960** In Buenos Aires, Argentina, four Israeli Mossad agents capture fugitive Nazi Adolf Eichmann who was living under the alias of Ricardo Klement.

**1998** India conducts three underground atomic tests in Pokhran to include a thermonuclear device.