

# SIXTEENTH AMENDMENT Take people's view

DR. MD. ABDUL ALIM

THE government is moving ahead to pass the "The Constitution (Sixteenth Amendment) Bill, 2014. The bill has been placed in the Parliament and it assigned the parliamentary standing committee on the Ministry of Law and Parliamentary Affairs to examine the bill. The committee scrutinised the Bill in just two days. The Law Minister, who is also a member of the committee, during its meeting, informed the parliamentary watchdog about the government's unwillingness to hold any discussion on the bill at this moment. Emerging from the meeting he also told that stakeholders will not be invited in the committee to discuss on the bill.

A constitution is a set of fundamental principles or established precedents according to which a country is governed. Most commonly, the term constitution refers to a set of rules and principles that define the nature and extent of government. Most constitutions seek to regulate the relationship among the various institutions of the state, in a basic sense the relationship between the executive, legislature and the judiciary.

Amending constitution is not new. In order to support the new laws and policies as well as to meet the demanding issues or changing priorities, it has been a practice to amend the constitution, both in established and developing democracies. But, it has been observed that sometimes constitutions are amended for the requirements of the party in power instead of the benefit of the people. Hence, the constitutional experts suggest making it more difficult to amend the constitution compared to ordinary laws. Even in some countries, it is nearly impossible to amend the constitution.

The Constitution of Denmark provides an example of multiple special procedures that must be followed to amend the constitution. After an amendment has been approved by parliament, a general election must be held; the new parliament must then approve the amendment again before it is finally submitted to a referendum. There is also a requirement that at least 40% of eligible voters must vote at the referendum in order for an amendment to be validly passed.

Similar to Denmark, in Norway, it is sufficient to

submit the constitutional amendment to parliament one year before the next election, and it is the task of the next parliament to decide on the proposal after the election. Thus, Denmark, Norway, Sweden, Finland, and Iceland require consent from two different parliaments, that is, those assembled before and after an election.

The United States' Constitution is unusually difficult to amend. Article V of the US constitution offers two routes to constitutional amendments. The first implies that an amendment proposal must be supported by two-thirds of both Houses of Congress and then ratified by three-fourths of the state legislatures. The second route is initiated if Congress is requested by two-thirds of the state legislatures to call a consti-

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tutional convention for proposing amendments. Thereafter, the suggested amendments must be enacted by three-fourths of the state legislatures or conventions, depending on the mode of ratification proposed by the Congress. Due to such difficulty, in 224 years of its existence, the US has amended the Constitution 27 times, which may be evidence that the framers established a high threshold for change.

In some countries, a referendum is a must for amending the constitution. Armenia, Azerbaijan, Iran, Iraq, Japan, South Korea are some of those countries. Maldives and Myanmar are the two countries of this region where there are legal provisions for mandatory referendum for amendment of constitution. In order to ensure citizens' participation in the state affairs, some countries have provisions of citizens' initiatives, agenda initiatives, recall, signature collection etc. In Taiwan, citizens can initiate a proposal for

the creation of a legislative principle or for the initiation of major policy. In Turkmenistan national and local referendums can be carried out for decision of major questions of state and public life. Decisions adopted by referendums may be repealed or amended only through referendum. In Japan, one-third or more of the total electorate may, under joint signature and through their representative, present a petition, in accordance with cabinet order, to the election administration commission, demanding dissolution of the assembly of the ordinary local public body.

Unfortunately in Bangladesh, we do not have the provisions of referendum, citizens initiatives, agenda initiatives, recall or signature collection although the constitution of Bangladesh guarantees "to maintain its supremacy as the embodiment of the will of the people and "all powers in the Republic belong to the people, and their exercise on behalf of the people shall be effected only under, and by the authority of this Constitution". The amendment of the constitution is passed by the votes of two-thirds of the MP and then sent to the President for his assent, and if the President fails to provide his assent in seven days, it shall be deemed to have been assented by the President.

Democracy is a form of government in which all eligible citizens are meant to participate equally – either directly or, through elected representatives. In some forms, democracy can be exercised directly by the people; in large societies, it is by the people through their elected agents. Or, in the memorable phrase of President Abraham Lincoln, "democracy is government of the people, by the people, and for the people."

Bangladesh is a constitutional republic, and in a constitutional republic the will of the people must be ensured through genuine democratic election, referendum or convention, rather than any other form. People in this country have the supreme authority to accept or reject any policy or decision. Hence, before amending of the constitution, the supreme law of the land, a mandatory provision should be made to take peoples' view.

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The views and opinions expressed in this article are those of the author's and do not necessarily reflect the official policy or position of Election Working Group.

## Foreign Minister's visit to New Delhi

**BOTTOM LINE**



**BARRISTER HARUN UR RASHID**

ON 19th September, Bangladesh Foreign Minister A.H. Mahmood Ali leaves for New Delhi to attend the third meeting of Bangladesh-India Joint Consultative Commission with his counterpart. This will be the first visit of Bangladesh Foreign Minister to New Delhi after BJP formed the government last May in India.

The meeting of the Joint Consultative Commission is likely to take place under the Indo-Bangladesh Framework Agreement on Cooperation for Development signed on 6th September 2011. The purpose of the meeting led by the two Foreign Ministers is to overview the totality of relations including the progress of the implementation of the agreed deals between the two countries in all sectors of cooperation.

The visit is important for Bangladesh because it will get a clear idea about the time-frame within which the BJP government is to resolve the pending priority issues for Bangladesh. Further it will provide the attitude of the Modi government toward a regional or sub-regional approach where all its neighbours are on board for commonality of interests on issues, such as climate change, energy, water sharing and management, food security and counter-terrorism.

It is reported that Bangladesh Prime Minister is likely to meet her Indian counterpart Modi for the first time on 27th September in New York where both Prime Ministers will be there for the G.A. session of the UN.

Following the visit of Bangladesh Prime Minister in January 2010, Dhaka has moved quickly to address Delhi's concerns on cross-border terrorism and connectivity to the North-East, while the implementation of the bargain on the Indian side has not been met, especially in water-sharing of the Teesta and Feni Rivers as well as on the implementation of the Land Border Protocol including exchange of enclaves and adverse possessions of lands.

Bangladesh is hopeful that BJP government with its huge mandate will be able to resolve the pending issues and thus facilitate the visit of Bangladesh Prime Minister to visit to India. Ms. Sushma Swaraj, India's External Affairs Minister, during her brief visit to Dhaka in June, said India's development could not be complete and sustainable unless they successfully partnered with their immediate neighbours. She also said that comprehensive and equitable partnership with Bangladesh was essential for a stable, secure and prosperous South Asia. In plain language she meant that since most of the bilateral issues are interconnected, solution has to be in a total package. Some suspect that implementation of border agreement could be linked with Bangladesh's action to halt the so-called Bangladeshi illegal immigrants to India.

Among the topics, Bangladesh is likely to raise the Bangladesh Prime Minister's visit to India, the signing of the Teesta Agreement, ratification of the Land Boundary Agreement, zero-border killings of Bangladeshi civilians, up-gradation of border infrastructure, removal of para-tariff and non-tariff barriers for Bangladeshi goods to India, status on Line of Credit from India and Indian plan for river-linking project of the Himalayan Rivers.

From Indian side, security, eviction of insurgents of northeastern India hiding in Bangladesh, illegal migrants from Bangladesh in India, trade and connectivity through Bangladesh to northeastern states of India by road and river, bridge over Feni River use of Chittagong and Mongla seaports for movement of goods to and from India and removal of travelling tax for Indian visitors to Bangladesh, among others are likely to be discussed.

Trade deficit for Bangladesh with India is huge. It is no more an economic issue but has turned into a political one. Exports to India declined 19 percent year-on-year to \$456.63 million in fiscal 2013-14. But exports were supposed to increase as the Indian government offered Bangladesh duty-free benefit for all products except 25 alcoholic and beverage items since November 2012.

It is pointed out that paragraph 33 of the Joint Communique after the Bangladesh Prime Minister's visit in January 2010 states clearly: "With a view to encourage imports from Bangladesh, both countries agreed to address removal of tariff and non-tariff barriers and port restrictions and facilitate movement of containerized cargo by rail and water."

The two Ministers may review the progress of sub-regional cooperation in water, power, connectivity and transit between Bangladesh and Nepal and Bhutan through Indian territory as envisaged by the Indo-Bangladesh Framework Agreement of 2011

It is undeniably a challenge for Bangladesh delegations to recognise the value of short and long-term gains.

The writer is Former Bangladesh Ambassador to the UN, Geneva.

## URDU-SPEAKING MINORITY IN BANGLADESH

# A citizenship sea change

BREMEN DONOVAN

THIS week in The Netherlands, Bangladesh's little-known Urdu-speaking minority – often referred to inaccurately as 'Biharis' – will be centre stage at the world's first ever Global Forum on Statelessness.

The conference, hosted by Tilburg University and the United Nations High Commissioner on Refugees (UNHCR), will hear how an innovative new program in Bangladesh is helping to turn the tide on years of discrimination and impoverishment.

The rest of the world has largely forgotten the existence of the Urdu-speaking minority in Bangladesh – and the plight of the 300,000 who remain in the 116 supposedly temporary camps set up during the Liberation War.

Whether they be so-called 'building camps' converted from abandoned Government offices, or just makeshift shanties, the camps where half the country's Urdu-speakers live are disintegrating and hugely overcrowded. In many of the building camps the floor may simply crumble under your feet. Gaps in the walls expose rusted steel and rotting concrete. Electrical lines hang in webs above the hallways. The overcrowding means most families – sometimes up to 10 people – share a single 2.5m-square room.

Despite a High Court ruling in 2008 that guarantees citizenship for Urdu-speakers, the people in the camps continue to face serious obstacles to obtaining documents like passports and birth certificates – without which breaking out of poverty is almost impossible. They often face demands for bribes, and refusals by government officers. What sets them apart from other Bangladeshis is the Urdu-inflected Bangla they speak, and for those from the camps, their address.

Farzana Naz lives in Staff Quarter Camp in Dhaka and is typical of many of her generation: she has never known anywhere other than Bangladesh as her country and she needs identity documents to improve her life. Farzana has applied for a passport so she can take a job as a domestic worker in Saudi Arabia to support her daughters through the rest of their



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schooling. A young woman called Nahid Parvin is helping with her case.

Nahid is a paralegal, or grassroots advocate, trained to support members of her community through the process of applying for legal identity papers and to document where there are hold-ups. She is at the forefront of a practical, law-based movement to ensure that the government makes good on its promise of 2008 – that Urdu-speakers are, by law, Bangladeshi citizens.

Nahid Parvin works for an organization called The Council of Minorities (CoM), which has partnered with the international legal empowerment organization Namati to provide support to people seeking citizenship documents. Namati also does similar work with the disenfranchised Nubian people in Kenya. "This is an awesome project," says Khalid Hussain, founder & Chief Executive of CoM. Khalid

grew up in Geneva Camp and was the first person from the camp to become certified as a lawyer.

As of June 2013, there are ten paralegals and three volunteers working across camps in five cities across Bangladesh. In little more than a year they have assisted more than 1350 clients.

Paralegals like Nahid are aware of the fears of many camp residents and the discrimination they can face and are trained to step in to provide crucial support. Paralegals are taught in the basics of the law, and the procedures for obtaining citizenship documents, and they are comfortable dealing with authorities and advocating on behalf of their clients.

One issue is awareness – not all Urdu speakers know they are even entitled to citizenship documents or that these documents are essential if they want to educate their children or access other basic services. Many fear trying to navigate the bureaucracy. Paralegals like Nahid are working to spread the word.

By doggedly pursuing formal, legal channels, and winning cases little by little, the Council of Minorities and Namati are chipping away at an entrenched system of brokers, middlemen and corrupt bureaucrats that stand in the way of Bangladeshi citizens obtaining basic citizenship documents. This is the work that will be highlighted at the Global Forum on Statelessness in The Hague on September 15-17.

"This project is important because you're establishing citizenship rights," says Khalid. Passing the law is one thing. Making sure what's written trickles down to the individual is the real challenge.

Many of the people living in the camps, Khalid's generation, were not even born at the formation of Bangladesh. They are interested in belonging to the only country they have ever known. Nahid says discrimination ran deep in school, too. Teachers would say to her, "Oh, you're from the camps, you killed our forefathers in '71." "I didn't say anything," she says. "But I cried all the time."

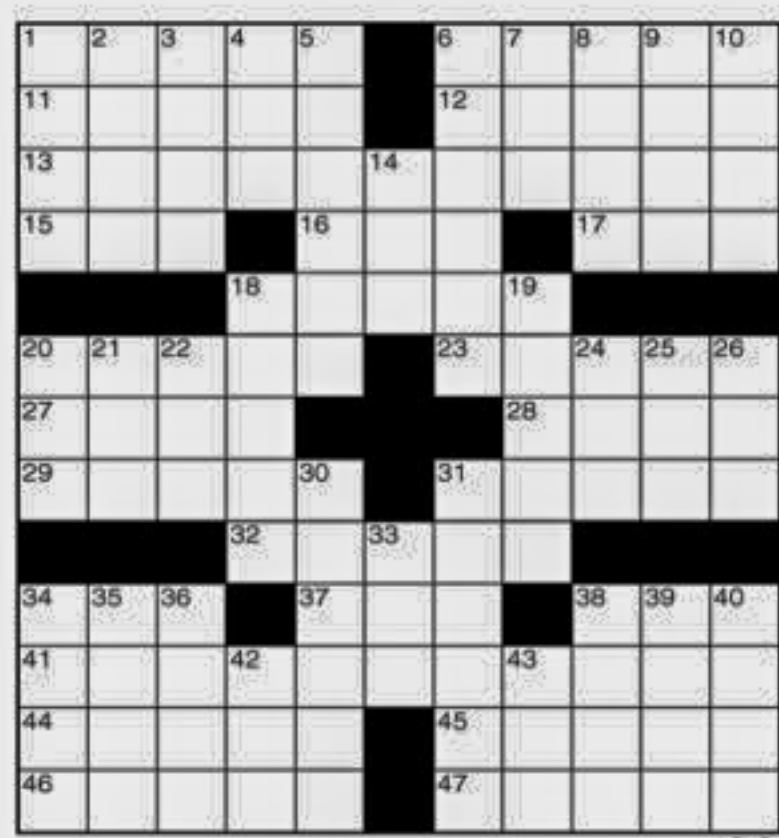
"Urdu is not an enemy language," says Khalid. "Our language is Urdu but we are Bangladeshi." He is right. The law says so.

The writer is a US-based writer and photographer.

## CROSSWORD by Thomas Joseph

**ACROSS**

- Flower part
- Neckwear choice
- Sports spot
- Mythical weeper
- Parlor's kin
- Glimpse
- Bill word
- Vigor
- Russian coin
- Man of morals
- Derivative look
- Riding whip
- Coffee, in slang
- Made demands on
- Hollowed out
- Fake duck
- TV spots
- Abel, to Adam
- Hotel amenity
- Film editor's place
- Notions
- Flight attendant's path
- Train stop
- Stirring item
- DOWN
- Pert talk
- Pennsylvania port
- Tennis star Sampras
- Leaf lifter
- Sick in bed
- Little dears
- Polite address
- Hen holder
- Clarinet cousin
- Office aide
- Essence
- Lassoed
- Take pleasure in
- Do something
- Pitcher's stat
- Boston team, familiarly
- Lobed organ
- Second person
- "Far out, man!"
- Stop
- Winding dances
- Whistle
- Litmus reddener
- Slacker address
- Dance move
- Mediocre
- Game with mallets
- Reply from the pews
- Eastern philosophy
- Shred



**CRYPTOQUOTE**

CLD KBCLXNGCH XM CLXED ALX CDKYL GE  
XMC DT KT XQECKYUD CX CLXED ALX AKTC  
CX UDKNT.

7-24

Yesterday's Cryptoquote: WHAT YOU GET BY  
ACHIEVING YOUR GOALS IS NOT AS IMPORTANT AS  
WHAT YOU BECOME BY ACHIEVING YOUR GOALS.

– ZIG ZIGLAR

## Yesterday's answer



**A XYDLBAAXR is LONGFELLOW**

One letter stands for another. In this sample, A is used for the three L's, X for the two O's, etc. Single letters, apostrophes, the length and formation of the words are all hints. Each day the code letters are different.

## BEETLE BAILEY

by Mort Walker



## HENRY

by Don Trachte



## QUOTABLE Quote

*A revolution is impossible without a revolutionary situation; furthermore, not every revolutionary situation leads to revolution.*

Vladimir Lenin