

Democracy pays heavily for Article 70

SHAKHAWAT LITON

THE High Court on May 5 declared the Constitution's 16th amendment, which had empowered the Parliament to remove a Supreme Court judge on grounds of misconduct or incapacity, unconstitutional and void. The verdict made some lawmakers unhappy, as they blasted the court in Parliament, hours after the judgement was pronounced.

Article 70 is the main reason that the amendment was declared "unconstitutional" as this controversial Article imposed a tight rein on MPs, who constitute the Jatiya Sangsad, making them powerless to perform their functions independently. In fact, one may argue that the High Court verdict on the 16th amendment might have been different had Article 70 not existed. This might seem like a paradox, as while the 16th amendment empowered the Jatiya Sangsad to remove a Supreme Court judge, Article 70, according to the High Court verdict, keeps them "hostage in the hands of their party." The HC verdict argues that Article 70 ensures that MPs cannot go against their party line or position on any issue in Parliament.

The said Article states: "A person elected as a member of parliament at an election at which he was nominated as a candidate by a political party shall vacate his seat if he (a) resigns from that party; or (b) votes in Parliament against that party."

"They have no freedom to question their party's stance in the Parliament, even if it is incorrect. They cannot vote against their party's decision," observed the court ruling, adding, "They are, indeed, hostages in the hands of their party high command."

In view of the HC, if Article 70 is retained in its current form, the members of parliament must toe the party line when the removal of a Supreme Court judge is raised. Moreover, the fate of the said judge will be left at the mercy of the party high command. This thereby proves the High Court's declaration that the 16th amendment is against the "independence of the judiciary", one of

the basic structures of the Constitution. Additionally, as stated by the HC, in 63 percent of Commonwealth jurisdictions judges are removed from office for their misconduct/misbehaviour or incapacity without the intervention of the legislature.

The HC, however, categorically cited the difference between the lawmakers in those countries, where parliaments have the power to remove a judge, as opposed to the situation in Bangladesh.

The verdict further explained that in the US, the UK, Canada and Australia, lawmakers are free to perform their functions in the Parliament. No restrictions like the ones imposed by Article 70 exist in those countries, stressed the HC.

The HC's observations have upheld what Awami League MP, Asaduzzaman Khan, had forecasted over four decades ago. Asaduzzaman, who was a member of the Constitution Drafting Committee in 1972, strongly opposed the inclusion of Article 70 to impose restrictions on MPs. He had given a

note of dissent against it, where he explained that the inclusion of this Article was against all principles of democracy and violated the rights of the electors, and that it would make MPs subservient to their party high-ups, and more so when they occupy top positions in the government.

Two other AL MPs, Hafiz Habibur Rahman and Muntaquim Chowdhury, had also strongly opposed to the restrictions on MPs in Article 70, and like Khan had released notes of dissent in this regard. However, their opposition did not work. Restrictions were imposed on MPs in the 1972 Constitution of the newly independent Bangladesh.

Over the years, the reign on MPs, placed under the excuse of this Article, was not loosened. Rather, restrictions were only tightened in past. For example, the fourth amendment in 1975 incorporated an explanation in Article 70, which stated that "If a member of parliament - being present in parliament - abstains from voting or absents himself from any sitting of

parliament, ignoring the direction of the party which nominated him at the election as a candidate not to do so, he shall be deemed to have voted against that party." Casting a vote against their own party means losing membership from the Parliament. By incorporating this explanation, the freedom of MPs was curtailed, giving them no alternative but to follow the party decision. This explanation remained in force until its cancellation by the 15th amendment in 2011. But the original restrictions persist till date.

These restrictions limited the performance of our Jatiya Sangsad, as it could not emerge as an effective Parliament. Whether they belonged to the treasury or the opposition benches, MPs could never act independently. They have been forced to follow the party line, even when it is flawed. The restrictions have also empowered the parties in opposition to force their MPs to boycott the House proceedings mindlessly, and this 'boycott culture' has crippled our previous Parliaments.

Many MPs of the opposition had not

supported the House boycott in the past, but they could do nothing because of the restrictions. MP of BNP, Major (ret'd) Akhtaruzzaman, had joined the Parliament, defying his party's decision to boycott it. He had to pay for it by losing his membership in the House. Before participating in any discussion, MPs need to know about their party's stance on the issue, without going through any merit of the issue. For this, the House could not emerge as a focal point of all activities. Thus, the Parliament has been kept dysfunctional over the years, putting our parliamentary democracy in a sorry state.

If our MPs now want to uphold the preeminent position of our Parliament, they should now open discussions on how to free themselves from these limitations. The reason is simple: the House will not be independent in the truest sense, until our MPs are freed from the restrictions imposed by Article 70.

The writer is Senior Reporter, The Daily Star.

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How to improve Dhaka's public services for future growth



BJORN LOMBORG

BANGLADESH has experienced remarkable economic growth in recent years. At the same time, Dhaka has not only become one of the most densely populated cities in the world—it is now also one of the largest unplanned urban centres.

More than a third of the city's population of 18 million is designated as poor, mostly confined to slum areas of the metropolitan footprint. The United Nations projects that by 2050, an additional 20 million people will live in Dhaka, driving population density even higher.

Such rapid and unplanned urbanisation presents enormous challenges. Regular garbage collection occurs for only half of city waste. The river systems in the metro areas have become so polluted that they threaten both human and animal health. And a lack of proper drainage leads to routine flooding that disrupts transportation and economic activity.

New research from Bangladesh Priorities examines the smartest ways to cope with the

challenges that have resulted from the capital's rushed and largely unplanned growth.

Analysis by Khorshed Alam, an associate professor of economics at the University of Southern Queensland, explores the smartest ways to deal with three growth-related issues in the capital: solid waste management, river restoration, and drainage network improvements.

Most of Dhaka lacks appropriate waste collection services. As a result, roughly half of all solid waste in the city is dumped in roadsides, canals, or low-lying areas, creating environmental and health hazards. The analysis proposes investment in waste management facilities to properly dispose of this garbage.

One aspect would involve sorting garbage at its source, which would allow for either recycling or safe landfilling of solid waste. In addition, facilities would be built to produce compost and biogas, whose end products would generate revenues. The project would provide indirect benefits from landfill costs avoided - these comprise more than 80 percent of the total benefits - due to diverting waste to more efficient uses.

Total spending of Tk. 6.3 billion would cover the construction of anaerobic composting and biogas plants in ten different localities of the city,

as well as additional waste-collection and operating costs. In all, the spending would give benefits of Tk 39.4 billion - or about 6 takas of social good for each taka spent.

A related solution would be to fund the restoration of the Buriganga River, which has become so polluted from household and industrial waste that its water harms humans and fish alike. Most of the spending would go toward building a wastewater treatment plant for the river, at a cost of approximately Tk. 25.6 billion. It would also require dredging the river, upgrading the landings, paying to relocate illegal structures, improving sewage infrastructure, and building paths and benches around the river to make it a more pleasant environment. The combined costs would equal Tk. 76.8 billion.

Cleaning the river and improving its facilities would make it safer for residents who live nearby, avoiding a massive Tk. 91.6 billion in healthcare costs. It would also increase property values in the river areas, provide recreation activities, and produce a cleaner environment and more fish habitat. With overall benefits of Tk. 128.2 billion, each taka spent restoring the river system would give about 1.5 takas in benefits.

Lastly, the research examines storm water drainage networks, which currently cover only 39

percent of Dhaka, meaning that much of the population is exposed to regular flooding. A recent World Bank study projects that over the coming decades, Dhaka will be one of the cities worldwide to be most vulnerable to flooding.

Expanding and improving the city's drainage system requires Tk. 68.3 billion to construct pumping stations, build pipes and sluice gates, and re-excavate certain canals. The benefits would include lower health risks from water-borne diseases and higher property values - especially in low-lying areas. The investment would also reduce economic and transport disruptions, because periods of flooding literally create a barrier to commerce. In all, the investment would do 2 takas of social good for every taka spent.

If you were in charge and wanted to do the most good for Bangladesh, would these infrastructure investments for Dhaka top your list? Let us hear from you at <https://copenhagen.fbapp.io/urbanpriorities>. We want to continue the discussion about the smartest ways to do the most good with each taka spent.

The writer is president of the Copenhagen Consensus Center, ranking the smartest solutions to the world's biggest problems by cost-benefit. He was named one of the world's 100 most influential people by Time magazine.

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QUOTABLE Quote

KENNETH BURKE

A way of seeing is also a way of not seeing.

CROSSWORD BY THOMAS JOSEPH

ACROSS

- 40 Secret meetings
- Private's boss
- Tuscany setting
- Caruso, for one
- Hot breakfast
- Purposes
- TV's Danson
- Folded food
- Pizza herb
- Pisa genius
- Most qualified
- 16 -- Lama
- Space sighting
- Cardiff's land
- 22 Marx topic
- Sanction
- Millard's predecessor
- Church services
- Pepe of cartoons
- Azure mineral
- Bay
- Jury members
- Hoosegow
- Plopped down

DOWN

- 1 Abstain
- 7 Forum wear
- 11 Comfortable
- 12 Saudi native
- 13 Talk excitedly
- 14 Con holder
- 15 Grabs (onto)
- 16 Motherless calf
- 17 Jane of fiction
- 18 Cellist Pablo
- 19 MP's quarry
- 21 Snare
- 22 Michigan city
- 25 Subway aid
- 26 Luke's sister
- 27 Online program
- 29 Movie excerpt
- 33 Begets
- 34 Classic 1953 western
- 35 Organ part
- 36 Basic need
- 37 Roof feature
- 38 Better ventilated
- 39 Whole lot

YESTERDAY'S ANSWER

L	A	T	H	E	T	E	T	R	A
E	T	H	E	L	A	S	H	E	S
T	H	E	M	E	A	S	P	E	C
H	O	G	C	E	E	J	O	E	
A	M	I	T	A	R	O	U	T	
L	E	V	I	E	S	A	S	P	S
F	I	N	K	S	A	M	U	E	L
E	G	G	B	U	N	A	L	I	
A	N	T	U	P	A	T	A	N	
S	O	R	T	S	M	A	R	I	E
T	R	E	A	T	A	R	E	N	A
S	E	E	D	S	S	T	E	E	R

BABY BLUES

BY RICK KIRKMAN & JERRY SCOTT