

Suranjit's objections to 1972 constitution and the debate on rewriting



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When the Constitution of Bangladesh was being drafted in 1972, Suranjit Sengupta, the youngest member of the committee tasked with the drafting process, had said, "The inclusion of these principles (the four basic principles) in our constitution appears to have been influenced by the Indian Constitution, which was itself modelled after Ireland's and Pakistan's 1956 constitutions. But I do not believe that, just because such provisions exist elsewhere, we are obliged to include them in ours." He had voiced his critique of the four fundamental principles during discussions at the constituent assembly.

After Bangladesh's independence in 1971, a 34-member committee, led by prominent lawyer Dr Kamal Hossain, was formed to draft the constitution of the new country. Six members of this committee (including Sengupta) submitted notes of dissent on various constitutional issues, which reflected their progressive thinking.

As debates about rewriting the country's constitution or major amendments to it have resurfaced recently, with a commission now tasked with looking into constitutional reforms, revisiting these early discussions may shed light on the foundational flaws in it. While the interim government lacks the authority to amend the constitution, the commission can submit a report recommending changes or amendments. The government that is formed after the next parliamentary election will have the power to implement these recommendations if they achieve a two-thirds majority in the House.

However, some have been advocating for

a complete constitutional rewrite, and doing so would require a constituent assembly. Whether the interim government has the authority to call for an election to form such a body remains a big question, as its advisers are sworn to uphold the existing constitution. Rewriting it, then, would be a considerably complex task.

Another option is a proposal to make the constitution democratic, agreed upon by all political parties participating in the election. This would mean that whichever party forms the next government would push the constitutional amendments through consensus in parliament.

However, before focusing solely on the process of amending or rewriting the constitution, it is crucial to revisit Suranjit Sengupta's critiques from 1972.

Sengupta, a noted lawyer, freedom fighter and later an Awami League leader, voiced the highest number of objections to the draft constitution, dissenting on nearly every clause. He argued that under the socialist principle, the public would be the ultimate owner of production, so joint ownership of resources and means of production should be enshrined as a fundamental right. He advocated for a cap on individual ownership of wealth, citing the examples of other socialist states such as the Soviet Union.

At the time, when the constitution of a country born out of a war was being written, Sengupta pushed for declaring food, clothing and shelter as fundamental rights, thus making the state accountable for their provisions. He argued that a government

failing to meet the basic needs of its citizens had no right to remain in power. He called for the inclusion of economic rights and the right to education as fundamental rights as well.

He also sought provisions ensuring not just the political, economic and cultural aspects, but the overall development of the ethnic minority groups—an issue that remains relevant till date. In the 15th

The debate on the appointment of the chief election commissioner and other election commissioners, which continues till date, took place in 1972 as well. Sengupta suggested that only individuals who had served as judges at the Supreme Court or the High Court should be eligible for these posts, given their critical role in upholding democracy. That's why these appointments should be done with people from the judiciary, which is meant to

this provision, saying MPs are supposed to be accountable to their voters first once they are elected to parliament.

The idea of a bicameral parliament, recently proposed by BNP Acting Chairman Tarique Rahman, was also raised in the 1972 constituent assembly by Hafez Habibur Rahman.

The concentration of power in the Prime Minister's Office has been a long-standing issue in Bangladesh. Many members of the 1972 constituent assembly opposed giving such broad authority to the prime minister, while some others argued it was necessary for effective parliamentary democracy. However, no one would probably deny that the power imbalance between the prime minister and the president has exacerbated political crises in Bangladesh over the last 53 years.

Hence, supporters of constitutional reforms now argue for balancing the authorities of the prime minister and the president, limiting a person's service as the prime minister to two terms, non-partisanship of the president, and a constitutional ban on an individual being the prime minister, leader of parliament, and chief of their party all at the same time.

While a well-drafted constitution is essential for a democratic and humane state, it is not enough. Without reforms to the complementary legal framework and institutions, simply amending or rewriting the constitution will not deliver the Bangladesh that many aspire to see. It largely depends on the competence, integrity and patriotism of those implementing reforms and those running the country going forward.

Though constitutional amendments are crucial, the interim government must prioritise controlling inflation, maintaining law and order, and protecting the freedom of speech and media. Without addressing these issues, its reform efforts may falter, leading to further instability.

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VISUAL: ANWAR SOHEL

Amendment introduced in 2011, a section on ethnic minority groups was added to the constitution, to the dissatisfaction of these communities who wanted recognition as "Adibashi." Therefore, the discussion of 1972 on this issue requires some consideration now.

Sengupta also criticised the provision of reserved seats for women in parliament, terming it undemocratic. He argued that this perpetuates women's dependence rather than promoting true gender equality. He proposed replacing the provision of reserved seats with a clause guaranteeing equal rights for men and women in all spheres of life.

be beyond political influence.

Aside from Sengupta, five other members submitted dissenting opinions during the drafting process in 1972: Hafez Habibur Rahman, Asaduzzaman Khan, AK Mosharrif Hossain Akand, Abdul Muntakim Chowdhury, and Dr Khitish Chandra Mondal.

One of the most debated articles in the constitution is Article 70, which prevents MPs from voting against their party. This article was also controversial in 1972. Hafez Habibur Rahman argued that it would turn parliament into an autocratic body controlled by party leaders and hinder the freedom of speech of the parliamentarians. He proposed cancelling

Key reforms needed to salvage the banking sector



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After the July uprising, the billion-dollar question on everyone's mind is the future of our banking sector. Media reports and civil society discussions paint a dismal picture, and there are numerous reasons for the prevailing pessimism. However, if we look at the banking sector reforms carried out in neighbouring countries like India, China, South Korea, Indonesia, or some European nations, we have reasons to believe that with the right structuring and seriousness from political leaders and development partners, the state of our banking sector could be improved to an acceptable level. Cooperation and dedication from the applicable regulatory authorities as well as the bureaucracy is also critical if the necessary reforms are to be implemented.

The IMF has emphasised the need for a sound financial system as a prerequisite for speeding up economic recovery. Against this backdrop, let us first consider some issues from the perspective of bankers and regulators that need to be addressed to chart a path towards a strong and efficient banking system in Bangladesh.

The banking industry as a business is inherently risky. The main focus of risk management practices in the banking industry is to manage an institution's exposure to losses and protect the value of its assets.

Senior bankers must ask themselves: what kinds of events or factors can damage my business and by how much? What actions can I take to minimise such risks? Did I make the right decisions to minimise such risks? In Bangladesh, the answers to these questions will vary significantly compared to banks operating in developed economies where firm regulatory and legal support exists. In Bangladesh, bankers struggle with external nuisances such as undue and often ruthless political pressure to forgive bad debts, greedy and selfish motivations of board members, rampant corruption of regulatory officials, weak regulations, fear of losing employment if they do not comply with influential people, and a lack of financial instruments to hedge against risks. Therefore, in a developing environment like Bangladesh, risk management



In a developing environment like Bangladesh, risk management in the banking sector becomes much more complicated.

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becomes much more complicated and therefore, in designing the necessary reforms, such complications and sensitivities need to be taken into account.

The board of directors within banks ultimately dominates the executive branch. In Bangladesh, this is often the root of many problems due to major conflicts of interest. The board of directors are often motivated by personal goals of wealth accumulation rather than the health of the institution. Some members may appear independent, but upon scrutiny, their conflicts of interest become visible. These directors often have relationships with wilful defaulters and use their influence over the executive branch to operate in risky ways. Therefore, fit and proper test criteria for board members should be strictly enforced and updated, including identifying the beneficial owners of significant interests in a banking institution. The boards of commercial banks should include a majority of independent directors, and legal systems should be enhanced to support banks in recovering non-performing loans (NPLs), particularly from wilful defaulters.

Whenever people are involved in the banking framework, "human"

and sophisticated MIS should be able to collect and analyse vast amounts of data to make unbiased decisions regarding actions to be taken. This support will provide bankers with the necessary tools to mitigate the risks of loans going bad. Enhanced digital and alternative banking options will also benefit customers by reducing the need for physical bank visits. Examples include depositing checks via smartphone apps, instant loan decisions by algorithms, wider availability of customised credit cards, and greater migration towards a cashless society.

Increased use of MIS, AI, and customised banking technology can improve a bank's asset versus liability management ratios and make the process more efficient. The primary objective of asset/liability management is to find the correct balance of risk versus return. This involves managing different variables, ratios, mixes, volumes, short-term versus long-term considerations, and rates in a balanced manner to realise the desired level of profit without much risk. Therefore, increased usage of MIS for such computations would be more prudent than relying on human judgment.

Due to increased computerisation, services provided to customers will

become faster. However, it will never be possible to completely remove the human factor from the banking system, especially for large, complicated transactions and specific customer demands where experienced judgement may be required. Therefore, it is critical that a bank's workforce is adequately trained, and their expertise upgraded to match the level of technology in place. Additionally, it is important that banking officials are hired and promoted based on merit and effectiveness rather than their personal relationships and connections to the board of directors/owners.

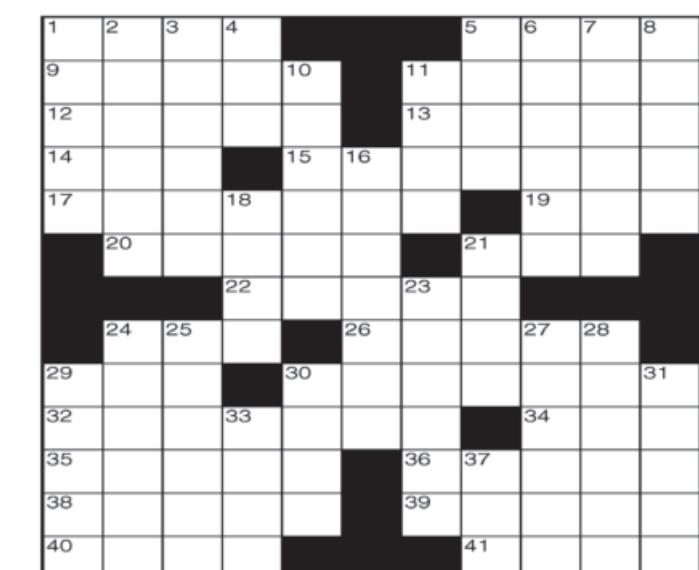
Banking sector policies and regulations by the central bank need to be fully transparent to avoid ambiguity among banks and facilitate appropriate implementation. Easy and fast access to all relevant regulatory and policy documents should be ensured. Another important issue is the sub-optimal enforcement of existing regulations. Regulatory forbearance, where the central bank permits banks to operate by relaxing standard norms, has led to the rescheduling of large, defaulted loans and the continuous piling up of NPLs. Banks practicing this should face strict and prompt remedial actions rather than relaxed standards.

Research on 19 commercial banks in Bangladesh shows that state-owned commercial banks (SOCBs) have been consistently outperformed by private ones in terms of efficiency. The role of SOCBs should be reassessed, transforming some into developmental institutions with a clear public mandate and necessary budget support. Other SOCBs should either be converted into banks operating on commercial principles or closed. The central bank needs to strengthen its regulation and supervision of SOCBs, which depends on its own independence and autonomy.

None of the above matters can be implemented without the full support and direction from the primary banking regulator—the Bangladesh Bank. The regulator should have the country's strategic vision in mind and bring together all the pieces such as asset/liability management policies, interest rates, the level of automation permissible, protections for bankers against undue influence, punishment for wilful defaulters, and rules governing the board of directors. The full sovereignty and independence of the central bank are critical, including choosing the right persons for the central bank board to mitigate and tackle these issues. If the primary regulator is not perceived to be above undue influence and pressure, the system it governs will never be right.

CROSSWORD BY THOMAS JOSEPH

ACROSS	29 Martini base	6 Ohio city
1 Bistro's kin	30 Mary who painted	7 Snare
5 Goblet part	in Paris	8 Unkempt
9 Bakery come-on	32 Mary who wrote	10 Buck topper
11 Was bright	"The Persian Boy"	11 Influence
12 Second airing	34 Depressed	16 Kind of scan
13 Loses freshness	35 Ticket category	18 Caustic solutions
14 List-shortening abbr.	36 Stirring	21 Train units
15 Mary who sang with Peter and Paul	38 ERA, RBI, etc.	23 Fellow player
17 Mary who wrote "Frankenstein"	39 Crew member	24 Deceived
19 Week part	40 Go it alone	25 Like the Super Bowl
20 So far	41 Bit of smoke	27 Zambia neighbor
21 Beat walker	DOWN	28 Feeds the furnace
22 Writer Jong	1 Gives a hoot	29 Lawn growth
24 — Vegas	2 Singer Franklin	30 Salon styles
26 Standards	3 Armies	31 Annoying fellow
	4 Outback bird	33 Sax type
	5 Prison knife	37 "Holy smokes!"



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YESTERDAY'S ANSWERS

F	A	T	H	O	M		F	R	O	G		
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