

DECENTRALISING THE HIGH COURT

Between consensus and constitutional constraints



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In a rare moment of unity, political parties in early July reached a consensus on establishing permanent benches of the High Court in divisional headquarters. This agreement, struck during discussions with the National Consensus Commission, comes with the understanding that Article 100 of the constitution will be amended. Therefore, the permanent seat of the Supreme Court remains in Dhaka, but one or more permanent benches of the High Court will operate at the divisional level, subject to consultation with the chief justice.

The logic behind such decentralisation is compelling. The Judiciary Reform Commission (JRC), in its report, had strongly recommended expanding the judiciary by setting up permanent High Court benches in every divisional city. The aim is to address the staggering backlog—currently over 5.77 lakh pending cases in the High Court Division alone—and to make justice more accessible. Today, all the High Court benches are housed in the Supreme Court buildings in Dhaka. This forces litigants from all corners of the country to make costly, time-consuming trips to the capital for hearings. By distributing permanent benches across divisions, justice could be delivered faster and closer to the people it serves.

The JRC stressed that each permanent bench should have a clearly defined jurisdiction in terms of the areas from which it can receive cases, while retaining the full jurisdiction of the High Court Division to issue judgments, orders, and directions. In other words, decentralisation should not fragment the High Court's constitutional authority nor undermine the unitary nature of the

state. Adequate infrastructure—courtrooms, judges' chambers, support staff, and budgets—would be essential. Implementation could proceed in phases, prioritising the most urgent divisions first.

The Constitution Reform Commission (CRC) made a similar recommendation, albeit with a slightly different model: permanent "seats" of the High Court in all divisions, while keeping the Appellate Division in the capital. Both the CRC and the JRC recognise that implementing either model—benches or seats—will require amending Article 100, which currently states: "The permanent seat of the Supreme Court shall be in the capital, but sessions of the High Court Division may be held at such other place or places as the Chief Justice may, with the approval of the President, from time to time appoint." In its present form, Article 100 only allows for temporary "sessions" outside Dhaka, not permanent benches or seats.

If this sounds familiar, it is because we have been here before. Between 1982 and 1986, several permanent benches were set up outside the capital under martial law proclamations. In 1988, the parliament amended Article 100 through the Eighth Amendment to establish six permanent benches in Barishal, Chattogram, Cumilla, Jashore, Rangpur, and Sylhet. This attempt at decentralisation was short-lived.

In the landmark Eighth Amendment Case (Anwar Hussain Chowdhury vs. Bangladesh, 1989), the Appellate Division struck down the amendment as void and unconstitutional, marking the first time in Bangladesh that a constitutional amendment passed by parliament was invalidated. The

court applied the "basic structure" doctrine, holding that certain fundamental features of the constitution—such as the supremacy of the constitution, separation of powers, independence of the judiciary, and the "oneness" of the High Court Division—cannot be altered even by a two-thirds majority in parliament.

The majority opinion was clear: creating multiple permanent benches with full

contemporary needs. Proponents propose three potential paths forward: first, design a model in which all permanent seats have plenary jurisdiction without territorial limits, with case allocation managed internally by the Supreme Court; second, adopt a fresh constitutional interpretation that reflects present-day demographic, economic, and judicial realities; and third, enact a referendum-based constitutional amendment

framework, no other court can be placed on par with the High Court Division. It found Article 44(2) inconsistent with the basic structure, particularly the oneness of the High Court Division, and therefore beyond the parliament's amending power under Article 142.

The 15th Amendment judgment's endorsement of the Eighth Amendment Case, especially its emphasis on the oneness of the High Court Division, is telling. While the case did not specifically deal with decentralisation under Article 100, the reasoning strongly aligns with the position that such decentralisation risks fragmenting the High Court Division's constitutional integrity. It is difficult to ignore how this judicial stance could be read as discouraging any move towards permanent benches or seats, regardless of political consensus or reformist enthusiasm.

This leaves Bangladesh at constitutional crossroads. On one side, we have overwhelming public support, formal recommendations from reform commissions, and cross-party political agreement to bring the High Court closer to the people. On the other, we face entrenched constitutional doctrine, reinforced as recently as last year, that resists any structural change perceived to dilute the High Court Division's unity.

The truth is, decentralisation of the High Court cannot be addressed through political will alone. Any reform must survive constitutional scrutiny under the basic structure doctrine as interpreted by our highest courts. This will require more than a straightforward amendment to Article 100—it will demand careful constitutional engineering, perhaps even a direct exercise of constituent power through the people themselves.

Until then, the promise of a more accessible and efficient High Court will remain an aspiration caught between two powerful forces: the undeniable need for reform and the unyielding guardrails of constitutional doctrine. Whether we can reconcile the two will determine not only the future of our judiciary but also the balance between stability and adaptability in our constitutional order.



VISUAL: ANWAR SOHEL

jurisdiction amounted to setting up rival courts to the High Court Division, violating its oneness and the unitary character of the republic. The lack of provisions for transferring cases between benches effectively turned each bench into a separate and distinct court, undermining the essential limb of the judiciary.

Today's decentralisation debate must grapple with this binding precedent. Opponents of reform, particularly some within the legal community, argue that any such move threatens the unitary structure of the judiciary and risks violating the constitution. Proponents counter that the realities of 2025 are drastically different from those of 1989, and that the constitution is a living instrument capable of adapting to

exercising constituent power, which would stand beyond the reach of the basic structure doctrine.

However, the Eighth Amendment Case is no longer the only obstacle. The issue must now also be viewed in light of the recent 15th Amendment Case, decided by the High Court Division on December 17, 2024, with the full judgment released in July 2025. The court reaffirmed the principles laid down in the Eighth Amendment Case in emphatic terms by revoking Article 44 (2).

Article 44(2) had allowed the parliament to empower "any other court" to exercise the High Court Division's powers to enforce fundamental rights. The High Court Division struck this down as unconstitutional, holding that within the constitutional

The 'six tigers' that drive China's AI geopolitics



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Astrophysicist Professor Ye Zhetai is dragged before a crowd of Red Guards and cheering onlookers. He refuses to denounce Einstein's theory of relativity as a "reactionary bourgeois academic" idea. The hysterical crowd watches as he is beaten with brass buckles and iron bars, his scientific principles costing him his life. Chinese writer Liu Cixin's science fiction masterpiece "The Three-Body Problem" opens with this brutally haunting image of how the Communist Party once punished the country's leading scientists for holding onto their scientific principles.

Six decades later, China leads in several areas of science and technology. This remarkable transformation is highlighted by the rise of six AI startups: StepFun, Zhipu AI, Minimax, Moonshot, OI.AI, and Baichuan—known as the "Six Tigers." Each has a valuation exceeding at least \$1 billion, with Moonshot valued at \$3.3 billion, Baichuan at over \$2 billion, and Minimax at \$2.5 billion. How has this extraordinary turnaround happened?

Behind the six tigers stands another crucial force: China's four dragons—Alibaba, Tencent, Baidu, and ByteDance, which play a vital role in nurturing the AI startup ecosystem. These dragons provide more than just funding; they offer cloud computing infrastructure, vast datasets, and most importantly, experienced talent who eventually spin off to create companies like the six tigers.

The six tigers didn't just appear; they were cultivated by a system designed to produce exactly this kind of success.

These companies emerged from China's 'Hundred-Model Battle,' where over 300 large models were released by 2023, with the six tigers representing the elite survivors

who achieved billion-dollar valuations. Now, having reached these valuations, they're ready to reshape the global technology landscape.

have long adapted to produce the kind of talent that tech startups need to compete worldwide. With over 10 million graduates each year, many of whom are focused on AI, this generates an endless pipeline of young talent buzzing with ideas. Recent studies show that 90 percent of AI researchers who studied in China have chosen to stay there. In addition to retaining the country's talents, the AI firms are also attracting top Chinese researchers from Google, Microsoft, and other Western giants, demonstrating their

ability to attract and benefit from global expertise.

The six tigers didn't just appear; they were cultivated by a system designed to produce exactly this kind of success. These companies emerged from China's "Hundred-Model Battle," where over 300 large models were released by 2023, with the six tigers representing the elite survivors who achieved billion-dollar valuations. Now, having reached these valuations, they're ready to reshape the global technology landscape.

First, they are democratising AI access. Companies like OI.AI are making world-class AI models freely available through open-source releases, proving that cutting-edge AI doesn't have to be locked behind expensive APIs. The rise of the six tigers represents more than economic competition—it signals a fundamental shift in global power dynamics that governments worldwide are scrambling to understand.

For decades, the United States has dominated global technology through companies like Google, Microsoft, and OpenAI. The tigers' success shows that this dominance isn't permanent. When OI.AI releases models that compete directly with GPT-4, or when Zhipu AI's research rivals anything coming out of Silicon Valley, it forces a recalibration of who leads in AI. This isn't just about corporate competition—it's about national influence. Countries that control AI technology will shape how the world works, from economic systems to military dominance. The tigers give China a seat at the table where these decisions are made.

Second, and perhaps more importantly, the tigers are creating alternatives to Western-dominated tech infrastructure. A prime example is Moonshot AI's recent launch of Kimi K2, a trillion-parameter model that competes with OpenAI's most advanced systems while being distributed as an open-weight model. This strategic move could fundamentally change the global AI landscape. When countries can access trillion-parameter AI capabilities, it significantly reduces US technological dominance. Kimi K2's open availability means any nation can develop advanced AI applications without needing to adhere to US export controls or technology restrictions. The geopolitical implications extend beyond technology itself. The tigers aren't just selling software; they're

exporting a different vision of how digital societies should work.

Third, the six tigers' success has intensified new Cold War between tech superpowers, where export controls and investment restrictions are the weapons. This competition, while creating tensions, is also driving unprecedented innovation on both

sides. Moreover, this creates risks, as we may soon see the global internet fragment into separate, incompatible systems. This scenario could become more likely, as countries may face pressure to choose between the two camps.

In the multiple Oscar-winning US sci-fi film *Gravity* (2013), directed

by Alfonso Cuarón, Dr Ryan Stone (Sandra Bullock), an engineer on her first space mission, is rescued back to Earth by a Chinese spacecraft. This ending might not be a coincidence, as in today's China, scientists like Professor Ye Zhetai are viewed not as "bourgeois puppets," but as national assets.

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার				
বাংলাদেশ পুলিশ কমিশনার এর কার্যালয় গাজীপুর মেট্রোপলিটন পুলিশ, গাজীপুর।				
"দরপত্র বিজ্ঞপ্তি"				
তারিখ: ১৮/০৮/২০২৫ খ্রি।				
"The Public Procurement Act-2006" & "The Public Procurement Regulation-2008/2010 (সংশোধনী-২০১৬" মোতাবেক ২০১৫-২০২৪ অর্থ বছরে গাজীপুর মেট্রোপলিটন পুলিশের জন্য ২য় বেন্দেরাইরে (অক্টোবর/২০২৫ হতে ডিসেম্বর/২০২৫ পর্যন্ত) বেন্দেন সামগ্রী কর্তৃর লক্ষ্যে বাংলাদেশের প্রত্ন বাসামি/টিকামার/সরবরাহকারী প্রতিষ্ঠানের নিকট হতে সীমান্তবন্ধুত থাম্ব প্রতিবেদন আনাব করা যাবে।				
দরপত্র বিজ্ঞপ্তি নম্বর: ১০/১৮/২০২৫-২০২৫ অর্থ সাল।				
১. মূলপত্র বিবরণ	২. প্রক্রিয়া মাধ্যম/জনসাধারণ বিবরণ			
৩. সর্বাঙ্গ সম্পাদনকারী প্রধান	৪. পুলিশ কর্মসূচী			
৫. সর্বপ্রকার বিবরণ	৬. সম্পাদন কর্মসূচী সরবরাহ, প্রতিবেদন কাজ, যথ প্রেরণ কাজ, পোলার্ট চাল সরবরাহ,			
৭. সর্বপ্রকার পদক্ষেপ	৮. আলোচনা কর্মসূচী সরবরাহ, কুলি কাজ, চাটেন্ট/প্রাইভেট বাণিজ্য বিক্রয়।			
৯. সার্কেল ও অধিবেশন কাজ	১০. সর্বপ্রকার পদক্ষেপ সরবরাহ কাজ			
১১. সর্বপ্রকার সম্পর্ক ও সময়	১২. সর্বপ্রকার পদক্ষেপ সরবরাহ কাজ ও সময়			
১৩. সর্বপ্রকার পদক্ষেপ পরিবর্তন	১৪. সুলিল কর্মসূচীর এবং কার্যালয়, গাজীপুর মেট্রোপলিটন পুলিশ।			
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