

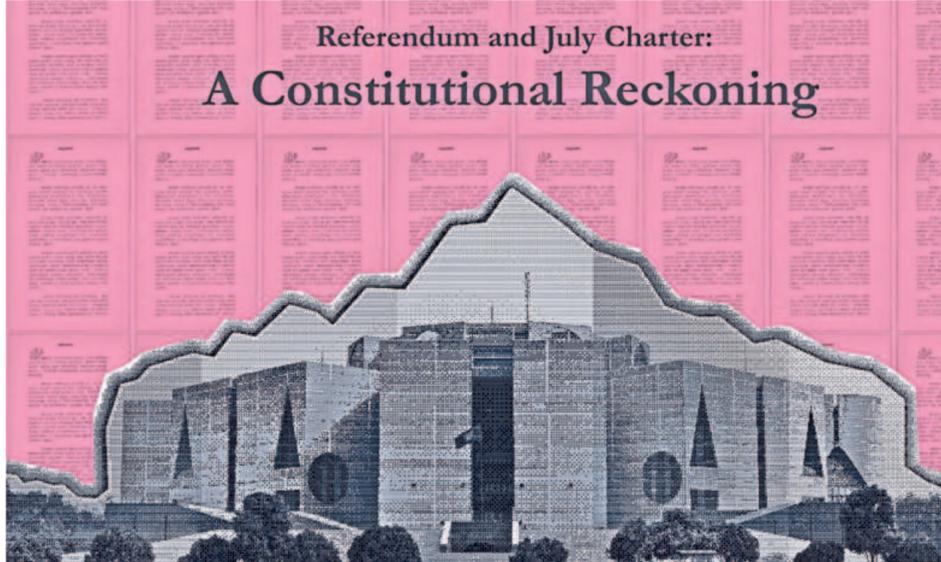
LAW OPINION

# Referendum and July Charter: A constitutional reckoning for Bangladesh

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In the crucible of Bangladesh's political evolution, the July National Charter 2025 has emerged as a transformative document—one that seeks to fundamentally recalibrate the nation's democratic architecture. With eighty-four reform proposals, half requiring constitutional amendments, the Charter has ignited a national debate about the very mechanisms of popular sovereignty. Central to this discourse is the vital question: should Bangladesh hold a referendum to ratify these monumental changes? The argument that a referendum is both legally feasible and constitutionally desirable offers a rare, momentous opportunity to re-anchor the state's legitimacy in the direct will of the people, invoking the foundational principles of constitutionalism and democratic theory.

The July Charter proposes reforms (electoral reforms, redefining checks on executive power, introducing safeguards against parliamentary overreach etc.) that are not merely statutory tweaks,



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but implicate entrenched provisions of the Constitution. Under Article 142 of the Constitution of Bangladesh, constitutional amendments require a two-thirds majority in Parliament. However, the current political climate—marked by deep fragmentation and persistent democratic deficits—makes such a consensus elusive and politically insufficient. In a polarised democracy, an amendment passed solely by a supermajority risks

being perceived as partisan, thus failing to achieve necessary political legitimacy. A referendum, therefore, becomes a pragmatic and principled alternative, enabling direct democratic endorsement and effectively immunising the reforms from future partisan challenges.

A principal critique is that the Constitution of Bangladesh does not explicitly provide for referenda. Yet, critically, it does not prohibit them either. This silence is a space for constitutional imagination. Legal scholars distinguish between constitutional silence and constitutional prohibition. The normative foundation for a referendum lies in Article 7(l) of the Constitution, which unequivocally declares that "[a]ll powers in the Republic belong to the people...". If sovereignty resides in the people, a mechanism that directly engages them on supreme law is necessarily an operationalisation of that sovereignty. Furthermore, the Preamble and Article 11 enshrine democracy as a fundamental ideal of

the Constitution and a fundamental principle of state policy respectively. A referendum being a quintessential tool of direct democracy perfectly aligns with this principle. It operationalises the idea that citizens are not mere subjects of the law but co-authors of the constitutional order.

Referenda offer a crucial bridge between representative institutions and direct participation, especially in moments of constitutional renewal. The July Charter being a constitutional manifesto responding to a sustained national demand for fundamental reform, ratifying it solely through parliamentary procedure risks deferring the democratic deficit. A referendum, by contrast, re-legitimises the state structure through broad, participatory consent. Moreover, the other formal legal pathways—via presidential ordinance or parliamentary legislation—are currently unavailable due to the dissolution of Parliament and the extra-constitutional nature of the interim authority itself. This

inability elevates the question to one of foundational constitutional theory.

The July Uprising in 2024 created a Kelsenian constitutional rupture. A new legal order was established, validated by the revolution's success and popular consent. However, the path for the interim authority remains constrained by the Supreme Court's ruling in *Monzur Ahmed Bhuiya v Adilur Rahman Khan* (2011), which explicitly curtailed the application of the doctrine of necessity in constitutional issues. Therefore, the interim authority cannot rely on the 'doctrine of necessity', rather issue a proclamation or a foundational law that derives its force directly from the sovereign will of the people which validated the July revolution. The referendum itself then serves as the crucial bridge: the formal, explicit process by which the people sanction the specific reforms of the July Charter, legitimising the new constitutional order.

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issues. While these concerns are valid, they are not fatal. With robust procedural safeguards—including independent oversight, transparent question-framing, and extensive civic education—a referendum can be a deliberative exercise. The ballot must present clear, segmented questions, allowing voters to express nuanced, informed preferences. Crucially, the referendum must be framed not as a plebiscite on government performance, but as a sacred constitutional moment. The focus must be squarely on the principles of reform.

The debate over timing—whether the referendum should precede or coincide with the national election—is ultimately a matter of political prudence and constitutional integrity. Holding both simultaneously offers efficiency and a maximum turnout, ensuring the incoming government reflects the electorate's constitutional preferences. However, a pre-election referendum may offer cleaner legitimacy, avoiding the conflation of constitutional reform with partisan mandates. What matters most is that the process is conducted in absolute good faith, with complete procedural fairness and institutional neutrality, thereby honouring the electorate's ultimate authority.

The July Charter and the ensuing referendum debate mark a true constitutional reckoning for Bangladesh. They compel a confrontation with foundational questions. In fact, the referendum is not a threat to constitutionalism; it is its fulfillment. It embodies the spirit of Article 7, operationalises the democratic promise of Article 11, and revives the possibility of a truly participatory republic. Bangladesh must seize this moment—not with haste, but with courage, wisdom, and an unwavering commitment to the sovereign will of its people. The referendum is not merely a procedural device; it is the democratic ritual that affirms the Constitution as a living covenant with every citizen.

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LAW VISION

## Artificial Intelligence and the court

RAISUL SOURAV

Artificial Intelligence (AI) is revolutionising human functions across different industries. Legal industry is not an exception to that and is already affected by AI fever in many countries to bring positive changes to the traditional legal profession. It applies to streamlining legal processes in courts, analysing legal instruments, and is even being used in certain jurisdictions to predict and prescribe judicial outcomes. Apart from these positive features, there are some limitations of using AI in legal proceedings which are ignored but should be shed light upon.

First of all, we need to understand that AI is actually a prediction tool by nature. Huge historical data are used to train AI powered tech tools and from there it learns to identify probabilistic patterns. It means, it does not actually reason, think or question like human beings although its output looks convincing and it can also mimic human style of reasoning. What is appalling is that it sometimes generate false information which apparently looks authoritative.

It does not even understand human language. Rather, it merely forecast the next token in a given sequence of words. Therefore, it cannot rectify previous human error but comes with its own set of biases, which stem from the training data, and subsequently reinforce them.

Law, legal proceedings and legal profession are not just about rules, rather they are about people as well, as they have to deal with the problems people face. Moreover, law is not to be understood as a mathematical formula to be mechanically inserted into a scientific system. Instead, it is a living and evolving organism that changes with societal values, cultural norms, and ethical considerations. Contrarily, AI systems do not have the emotional empathy, ethical judgment, human intuition, authority, and/or experience that reflect societal values and are mandatory for the legal profession.

AI also lacks the ability to assess a situation at a particular moment, which human beings champion. Human lawyers do not only apply law in court cases, but they also have skills to adopt with the judges and court environment. They adjust their responsibilities to the court, respond to the mood, tone, and dynamics of the moment accordingly.

Alongside, every case is different, and there is valid justification why every case ought to be judged on its own facts cautiously. Public need to see and feel that law is being applied justly and putting people's problem to algorithm

may create a barrier between the public and the judicial process.

Furthermore, self-represented litigation with the help of AI chatbots is gaining popularity as it saves the cost of lawyer. However, such AI chatbots cannot argue in favour of its client when the judge asks a question or seeks clarification during a hearing. In addition, it will not be able to object to improper cross examination or unfair treatment in the court. Apart from these, court is like a playground where the other side might pull a manoeuvre suddenly. Hence, one needs to think promptly and make judgment calls on the spot which AI is not able to do in self-represented cases.



Additionally, since AI or its programmers or deployers are still free from any criminal responsibility, the court will penalise the human person even if it is the AI's fault. Recently, the Upper Tribunal (Immigration and Asylum Chamber) of the UK warned the lawyers about the use of AI, after finding a fictitious judgment generated by ChatGPT being cited in the court. The lawyer is also referred to the Bar Standards Board of the UK for investigation. Several other lawyers across jurisdictions also faced criticism and punishment from courts and regulatory bodies for referring to ChatGPT generated false information in real cases to the court.

The role of the judiciary is not just to process cases efficiently but to weigh moral consequences, to ensure fairness, and to uphold the rule of law in a way that no machine can replicate. Therefore, we must draw a line between the application and use of AI generated outputs and our own conscience in complex, sophisticated and incidents having impacts on human lives, that play out in the courtroom.

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ENVIRONMENTAL LAW

## Protecting our climate-induced displaced population

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Every year, thousands of families from coastal districts such as Bhola, Satkhira, Barguna, and Khulna are forced to abandon their homes not because of war or persecution, but because of rising tides, eroding riverbanks, and increasingly violent cyclones. They flee to cities like Dhaka, Khulna, or Chattogram in search of safety and survival. Yet, upon arrival, they have to face a new kind of disaster: the absence of legal recognition, housing rights, and social protection. They are climate-induced internally displaced people, and in Bangladesh, they remain largely invisible to the law.

**Climate induced displacement is not just an environmental issue, but a question of rights, dignity, and recognition. The people fleeing the coast are not mere victims of fate. Being citizens of Bangladesh, they are entitled to the full protection of its laws. If we fail them, we fail the very spirit of justice that our Constitution promises.**

Bangladesh is recognised globally as one of the countries that are most vulnerable to climate change. According to the International Organization for Migration (IOM), nearly 13.3 million people could be displaced within Bangladesh by 2050 due to climate-related impacts. Despite this growing crisis, there is no specific legal or policy framework that recognises the climate-induced displaced or protects their rights.

Currently, the displaced families fall into a grey area where they are not classified as

'refugees' under international law, nor as 'internally displaced persons' (IDPs) with special legal status under national law. The Disaster Management Act 2012 and the National Plan for Disaster Management do emphasise response and recovery, but they remain silent on long-term rehabilitation or legal entitlements for those displaced permanently. As a result, IDPs often end up living in informal settlements, without secure housing, access to clean water, education, or healthcare.

Many families from coastal areas like Shyamnagar or Charfasson arrive in the capital after losing their land to river erosion. With no formal proof of residence, they cannot access national ID registration,

promises through legislative initiatives is both urgent and necessary.

Moreover, the government could consider establishing a National Climate Migration Policy, aligned with the Bangladesh Delta Plan 2100 and National Adaptation Plan (NAP), to guide planned relocation, land allocation, and social integration of climate-affected people. Such a policy should clearly define responsibilities among government bodies ranging from the Ministry of Disaster Management and Relief to the Ministry of Land and Ministry of Local Government, Rural Development and Co-operatives to ensure that displaced citizens are not left in bureaucratic limbo.

At the local level, community-based organisations and NGOs have shown what legal empowerment can achieve. Initiatives that help IDPs obtain legal documentation, access microfinance, or engage in participatory urban planning demonstrate that inclusion is possible. However, these efforts must be backed by law, not just as charity.

Bangladesh has long been a global symbol of resilience in the face of natural disasters. Yet, resilience should not mean forced adaptation to injustice. Climate induced displacement is not just an environmental issue, but a question of rights, dignity, and recognition. The people fleeing the coast are not mere victims of fate. Being citizens of Bangladesh, they are entitled to the full protection of its laws. If we fail them, we fail the very spirit of justice that our Constitution promises.

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social safety nets, or even basic services. Their displacement is environmental, but their suffering is legal.

To ensure justice, Bangladesh needs to recognise climate-induced displacement as a human rights issue. This means expanding existing legal frameworks to include the right to resettlement, livelihood protection, and access to justice for the displaced populations. The Constitution of Bangladesh, under Article 15 read with Article 32, already provides the moral foundation for such recognition. Strengthening these constitutional