

# Caretaker by court and by charter: Are we headed for a collision?



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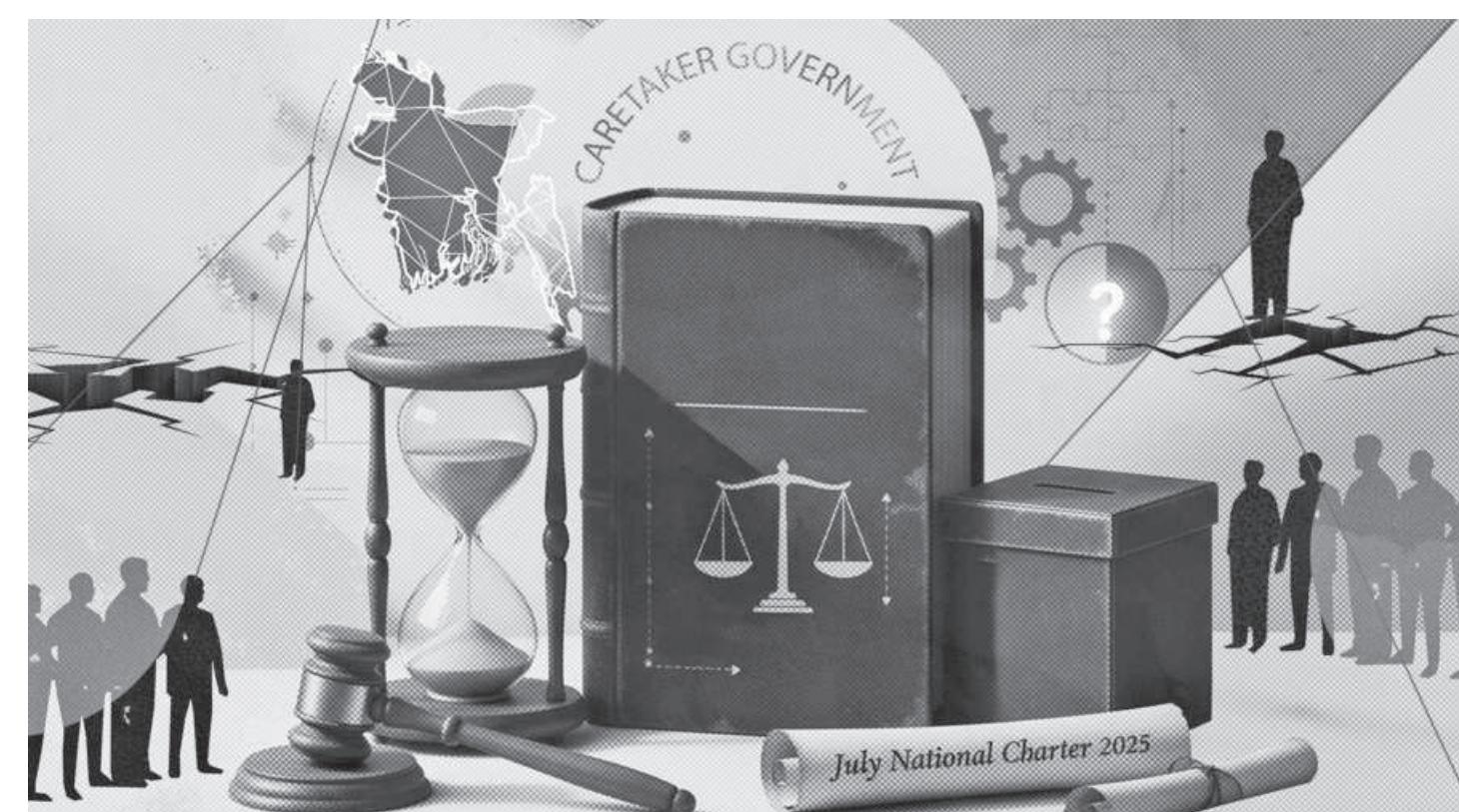
KHAN KHALID ADNAN

Bangladesh now has one idea for election-time governance running on three tracks. The High Court has ruled that the 15th Amendment's abolition of the caretaker system violated the basic structure and revived both referendums and the possibility of a neutral election-time government, in effect reopening the constitution's Chapter IIA that parliament had deleted in 2011. Its December 2024 judgment (full verdict published in July 2025) struck down the provisions that abolished the caretaker system and removed the referendum mechanism. The National Consensus Commission's July National Charter 2025 also offers a political blueprint for that system. Meanwhile, the Appellate Division, reviewing the 13th Amendment case of *Abdul Mannan Khan v Bangladesh*, has restored the 13th Amendment and branded the 2011 judgment of then Chief Justice ABM Khairul Haque as "tainted," while keeping the next election under the Professor Yunus-led interim government and reserving the caretaker for future polls.

Whether these tracks ultimately align or pull against one another is a core constitutional question.

The starting point of this tension lies in the 2011 verdict. In the original 13th Amendment case, the Appellate Division, led by Chief Justice Khairul Haque, declared the caretaker system inconsistent with democracy, yet allowed two more elections under it through prospective overruling. The then parliament treated that short order as a green light and rushed through the 15th Amendment, abolishing the caretaker provisions and referendums. That sequence enabled three contested elections in 2014, 2018, and 2024, which the High Court now openly links to the July 2024 uprising and the collapse of the Awami regime.

That said, the High Court's December 2024 judgment on the 15th Amendment did more than reopen the door to a caretaker government and restore referendums. It



VISUAL: ANWAR SOHEL

held that the abolition of the caretaker model undermined democracy, free and fair elections, judicial independence, and popular sovereignty, and treated the system as part of the constitution's basic structure. It also struck down Article 7B, amongst others, which had tried to make large parts of the constitution unamendable, and revived the referendum clause in Article 142. The student-led July uprising, the interim government formed after an Article 106 reference, and the six reform commissions under the charter—all pushed in the same direction: a neutral election-time government became politically unavoidable. The July Charter is the clearest expression

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of that political consensus, and its caretaker chapter departs sharply from the original 13th Amendment. Instead of automatically appointing the last retired chief justice as chief adviser, it creates a five-member selection committee drawn from the prime minister, opposition leadership, and the presiding officers of parliament. The committee would invite nominations from parties and independents, may search for its

while rejecting this particular caretaker architecture. Nor can they choose between the charter model and whatever institutional design the Appellate Division ultimately reads into the revised 13th Amendment when its full judgment appears. The referendum will generate a single political mandate for the charter; the court is simultaneously generating a judicial mandate for a specific reading of Chapter IIA.

this way is unlikely to avoid saying something about the composition and appointment of the future caretaker government.

This is where the discomfort becomes doctrinal. If the full judgment treats the detailed 13th Amendment model as part of the basic structure, any attempt to constitutionalise the July charter's selection committee will face a basic structure challenge. Parliament cannot use Article 142, even with a referendum, to amend what the court has held to be the basic structure. Yet the charter's drafters have tried to anchor their model in the 13th Amendment by borrowing its eligibility criteria and writing in a last-resort default to the original mechanism. Each side will claim to be the defender of the 13th Amendment's spirit rather than its saboteur.

The two projects, however, do not have to collide. Legally, there are at least two ways to avoid a clash. The Appellate Division could use the full judgment to identify only the core features of the caretaker system as basic structure—neutrality, a limited non-legislative mandate, and a 90-day time limit with a narrow extension—while leaving appointment of the chief adviser to politics. That would provide parliament and the referendum space to adopt the July charter's committee-based model. Alternatively, the caretaker provisions of the charter could first be implemented through ordinary constitutional law operating "subject to the 13th Amendment," treating the charter as a political code of practice rather than an immediate textual rewrite of Chapter IIA.

Politically, Bangladesh is now running two projects of constitutional legitimacy. One is led by judges trying to undo the damage of an earlier court and a discredited partisan decade. The other is driven by a fragile multi-party compromise embodied in the July charter and about to be tested in a binary referendum. Unless the interim government, the main parties, and the court treat both the charter and the forthcoming judgment as starting points, rather than sacred texts, the country risks moving from one era of constitutional conflict into another. After years of arguing over whether there should be a caretaker government at all, we may now be heading for a second argument over which caretaker government the constitution will actually permit.

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## Bay of Bengal's slow death threatens our future



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Bangladesh woke up this week to one of the most alarming environmental findings in its recent history. According to a report in *The Daily Star*, marine fish populations inside the country's exclusive economic zone in the Bay of Bengal have plummeted at a rate scientists describe as catastrophic. In just seven years, nearly four-fifths of the bay's fish that live in the pelagic zone—neither close to the sea-bed nor the shore—have vanished. This is not a routine decline. It is a collapse—rapid, severe, and potentially irreversible.

To grasp the magnitude of this collapse, consider that global fisheries scientists sound alarms when stocks fall by 30 to 40 percent. A 50 percent decline signals a crisis. But an 80 percent drop in less than a decade suggests a system on the edge of ecological failure. Collapses of this speed and scale have devastated fisheries in Canada's Newfoundland, the United States's California, and Peru in South America—regions where recovery took decades and, in some cases, never fully occurred. Bangladesh is now facing a similar possibility, and the consequences will be far-reaching if urgent action is not taken.

The news report attributes the collapse to several causes: overfishing, illegal fishing, and destructive fishing practices. These represent real, daily patterns of exploitation that have pushed the bay to exhaustion. Industrial trawlers—both legal and illegal—scrape the seabed with gear that destroys marine habitats, kills juvenile fish, and leaves entire zones barren. Many vessels routinely under-report their catch, operate in restricted zones, or violate

seasonal bans. Meanwhile, small-scale artisanal fishermen, who are the backbone of coastal economies, are now forced into deeper and more dangerous waters because nearshore fish have been depleted.

Bangladesh's regulatory framework is simply not equipped to handle this level of pressure. The country authorises far more industrial trawlers than its marine ecology can sustain. Monitoring is inadequate. Enforcement is

**As fish stocks decline, cross-border tensions over marine resources in the bay may intensify. Countries around the Bay of Bengal—India, Myanmar, Sri Lanka—are also grappling with declining fish populations. Competition for dwindling resources often leads to arrests of fishermen, maritime disputes, and escalations that strain diplomatic relations.**

sporadic. Coast guard resources are overstretched. Illegal operators often escape accountability through political protection or bribery. Scientific research capacity remains thin, leaving policymakers without accurate stock assessments or long-term ecological modelling.

The collapse in fish stock will

makes up nearly 15 percent of Bangladesh's total animal protein intake. A sharp decline will raise food insecurity, increase protein deficiency, and widen nutritional inequality. For crores of coastal residents—from fishers and boatmen to traders, processors, and transport workers—marine fisheries are the primary source of income. A collapse in marine stocks means declining catch, lower earnings, rising debt, and a slide into deeper destitution. Coastal districts, already battered by cyclones, erosion, and salinity, will face additional economic hardship.

There is also a geopolitical dimension. As fish stocks decline, cross-border tensions over marine resources in the bay may intensify. Countries around the Bay of Bengal—India, Myanmar, Sri Lanka—are also grappling with declining fish populations. Competition for dwindling resources often leads to arrests of fishermen, maritime disputes, and escalations that strain diplomatic relations. Bangladesh cannot afford to let ecological collapse feed into geopolitical instability.

The nutritional consequences are equally serious. Bangladesh is already dealing with rising food inflation, reduced dietary diversity, and a growing burden of non-communicable diseases linked to a poor diet. Marine fish—comparatively affordable, accessible, and protein-rich—have long been a nutritional anchor for the poor. When fish disappear, households will be forced to shift to inferior protein sources or go without, accelerating hidden hunger, childhood stunting, and micronutrient deficiency.

This crisis reflects decades of policy neglect, political interference, weak enforcement, and an absence of a long-term vision for marine governance. Bangladesh possesses marine laws on paper, but laws do not protect oceans—stitutions do. Without sustained political commitment, transparency, and science-based decision-making, no legal framework can prevent ecological collapse.

Two options are open for Bangladesh. The first is the continuation of the status quo, a path of slow death for the bay: allowing illegal trawlers to operate, letting industrial vessels destroy sea beds, ignoring scientific warnings and pretending that fish stocks will replenish themselves. If Bangladesh chooses this path, the collapse will deepen, and the bay may reach a point where recovery becomes impossible within a generation. The poor will suffer first and most, but eventually, urban consumers, national nutrition, and geopolitical stability will also be affected.

The other path is one of urgent recovery that demands political courage and institutional reform. First, Bangladesh must dramatically reduce the number of industrial trawlers. Many countries have

implemented trawler buy-back programmes to reduce pressure on marine ecosystems; Bangladesh may need to consider similar policies. Second, enforcement must be strengthened, with modern vessel-tracking systems, real-time monitoring, and a fully empowered coast guard. Third, scientifically guided seasonal bans and no-take zones must be enforced without exception. Breeding grounds and nursery habitats have to be protected if the bay is to heal.

Fourth, Bangladesh must invest in marine science. The country needs updated stock assessments, habitat mapping, and ecosystem modelling to craft policies based on evidence rather than intuition. Finally, coastal communities must be supported with alternative livelihoods—aquaculture, eco-tourism, value-added fish

processing—so that conservation does not come at the expense of human survival. In all of this, timing is crucial. The window for action is narrowing quickly.

Bangladesh has shown resilience in many areas of national life. Whether that resilience can be reactivated—decisively, intelligently, and urgently—will determine not only the future of the ocean but the future of crores of people who depend on it. The Bay of Bengal is a living asset, not an inexhaustible warehouse. Once its life collapses, no policy can bring it back quickly.

This generation has a choice to make. It can allow the bay to die slowly, its fishery wealth drained by neglect and exploitation; or it can act decisively by protecting, restoring, and managing the ocean with the seriousness the crisis demands.

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### e-Tender Notice

This is notifying to all concern that the following tenders are invited in the national e-GP portal.

Sl. No.	Tender ID	Procurement Title	Online Notice Publication Date & Time	Last Selling Date & Time	Closing Date & Time
1	1188881	Procurement and Supply of Raw Materials and Spare Parts.	03-12-2025 12:00 PM	17-12-2025 05:00 PM	18-12-2025 02:30 PM
2	1188882	Procurement and Supply of Furniture.			
3	1188883	Procurement and Supply of Engineering and other Equipment.			

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