

YEAR-IN JUDGMENT REVIEW

Notable Supreme Court decisions of 2025

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A number of landmark decisions were handed down by the Supreme Court of Bangladesh (SCOB) in 2025. This write-up compiles some of the landmark judgments that have significant constitutional and socio-political impacts.

CARETAKER GOVERNMENT REINSTATED, EFFECTIVE PROSPECTIVELY

In a landmark judgment, on 20 November 2025, a seven-member bench of the Appellate Division (AD), headed by the then Chief Justice Syed Refaat Ahmed, unanimously overturned its verdict handed down in 2011 and restored the caretaker government system. The Non-Party Caretaker Government system, which was introduced in 1996 by the 13th Constitutional Amendment, was held unconstitutional by the majority view of the seven-judge bench of the Appellate Division. The current decision came after allowing two separate appeals and four review petitions filed against the 2011 verdict. The Court in the review petition held that the impugned judgment is 'tainted by several cited errors apparent on the face of the record,' and thus set it aside. As a result, arguably, the provisions of Chapter IIA of Part IV of the Constitution relating to the Non-Party Caretaker Government have been revived. However, the revived provisions shall operate only prospectively, the Court held. The decision will, hopefully, open the door to a stable and consistent electoral practice and ensure free and fair elections in Bangladesh, thus strengthening democracy.

ARTICLE 96 RESTORED IN FULL, DIVERGENT VIEWS ON CODE OF CONDUCT

On 5 June 2025, the SCOB released the full-text judgment of the 16th Amendment review case. Last year, the AD disposed of the review petition filed by the previous government that sought to overturn the 2017 verdict scrapping the 16th Constitutional Amendment. In this judgment, the Court labelled the 16th Amendment as an attempt to put the independence of judges at stake by putting the power to remove judges in the hands of the parliament. Apart from restoring Article 96 in its entirety, the apex Court, in the full judgment, take divergent views on 39-point judicial code of conduct. The then Chief Justice observed that 'the Code of Conduct is to be considered as permitting of growth and mutations by drawing on the inherent power of only the Supreme Judicial Council to revisit existing provisions as and when necessary.' However, the validity of the code as authored by the AD was questioned by other Justices, necessitating a fresh formulation. In essence, the verdict reinstated the independence of the

judiciary and judicial accountability, leaving the question of code of conduct open.

LEGITIMACY OF THE INTERIM GOVERNMENT UPHELD

The Appellate Division, on 4 December 2025, upheld the verdict by the High Court Division (HCD) that summarily rejected the writ petition questioning the legality of the interim government. The seven-member bench led by the then Chief Justice Syed Refaat Ahmed unanimously rejected the leave petition against the judgment by the HCD with observations. The writ petition questioned the process of formation and oath-taking of the interim government on the ground that it was not supported by any legal document. On 13 January this year, the HCD rejected the petition, saying it was malicious and unacceptable since the government was formed and sworn in under the advisory opinion of the Appellate Division of the Supreme Court. In effect, the present order has cleared the way for the interim government to hold elections and implement reforms.

PRICES OF LIFE-SAVING DRUGS TO BE FIXED BY GOVERNMENT

The HCD, in a judgment delivered on 25 August 2025, directed the prices of all life-saving medicines under the

life-saving medicines.

MARRIAGE AND DIVORCE INFORMATION TO BE REGISTERED ONLINE

In a landmark decision, the HCD ruled that all marriage and divorce information must be mandatorily registered digitally. It also directed the secure storage of such information and enabled the citizens (especially women) to verify the records and obtain digital copies thereof. The bench consisting of Judge Fahmida Quader and Judge Md Ashif Hasan delivered this verdict on 11 December 2025, observing that the traditional system of marriage and divorce registration makes verification of marriage and divorce difficult, thereby undermining family stability and creating complications concerning the legitimacy of marriage. It also found that the lack of a digital database incentivises fraudulent practices and thus violates the fundamental rights protected under articles 31 and 32 of the Constitution. Finally, it can be opined that digitalisation of marriage and divorce will ensure transparency, prevent fraud, and reduce family-related disputes.

POLITICAL PARTIES TO CONTEST NATIONAL ELECTIONS USING THEIR OWN SYMBOLS

The HCD on 11 December upheld the amended provision of the Representation of People Order, 1972 (RPO) that prevents the political parties from using the symbol of their partner party in an electoral coalition. Earlier, the Government brought a number of amendments to the RPO, including the impugned provision requiring political parties to contest national elections using their own symbols despite being in a coalition. On 1 December 2025, in response to a writ petition, the Court issued the rule asking the Government and the Election Commission why the provision should not be declared illegal and unconstitutional. It was argued that the amended provision restricts political freedoms and disrupts long-established electoral practices. The bench of Judge Fatema Najib and Judge Fatema Anwar discharged the rule after hearing the arguments. The petitioner has expressed its willingness to move an appeal before the AD. It can be argued that the earlier provision favoured small political parties, helping them overcome their limited organisational capability by making coalition with larger political parties.

To conclude, 2025 was a vibrant and proactive year producing some of the landmark verdicts that have contributed to our constitutional jurisprudence, and at the same time, reached the downtrodden populace of our society.

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The year 2025 emerged as a vibrant and proactive year, delivering several landmark verdicts that enriched our constitutional jurisprudence while simultaneously extending justice to the downtrodden sections of society.

Drug and Cosmetics Act 2023, to be determined by the Government, and not the pharmaceutical companies. This decision came as an outcome of a Public Interest Litigation filed by Human Rights and Peace for Bangladesh in 2018, challenging a 1994 circular that fixed the prices of only 117 medicines, leaving the prices of other drugs to be settled by the manufacturing companies. The Court noted that medicines are not luxurious items and that fixing the price of the medicine is not a privilege of the manufacturers. The Court also directed the authorities to frame clear guidelines for preparing the list and fixing the prices. The judgment may be particularly helpful for the ailing patients suffering from diabetes, kidney or heart diseases. At the same time, it enables the poor and marginalised classes to have access to



YEAR-IN LAW REVIEW

Key legislative reforms of 2025 in Bangladesh

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Bangladesh experienced major changes to its legal framework through ordinances in 2025. In total, the President promulgated 78 ordinances (at the time of writing this piece) across a wide range of areas. Most of them came into being as part of the ongoing reform process. Some of the most notable ones are discussed in this piece.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT AND SECOND AMENDMENT) ORDINANCE 2025

The long-awaited amendment to the Code of Criminal Procedure 1898, introduces several important reforms. A key change is the revision of the power of magistrates under section 32, empowering first-class, second-class, and third-class magistrates to impose fines of up to BDT 5 lakh, BDT 3 lakh, and BDT 2 lakh, respectively. The amendment further inserts sections 46A-46E to strengthen safeguards for the arrested persons. Those provisions require disclosure of police identity, preparation of a memorandum

limited to boys under the age of sixteen, leaving men above this age unprotected from non-consensual sexual acts. Additionally, fines for certain offences have been increased and a separate Tribunal for Child Rape Offences have been introduced.

INTERNATIONAL CRIMES (TRIBUNALS) (AMENDMENT) ORDINANCE 2025, FOLLOWED BY SECOND AND THIRD AMENDMENTS

The International Crimes (Tribunals) Act 1973 underwent significant amendments in 2025 through three successive ordinances aimed at modernising the trial process and establishing better public accountability. This reform was first initiated by Ordinance No. 04, i.e., The International Crimes (Tribunals) (Amendment) Ordinance, 2025. Sections 4, 8, 9, 11, 12, and 19 were amended. Specifically, these amendments clarified the process for initiating proceedings, enhanced judicial powers, and importantly, amended section 19 to modernise evidentiary rules by allowing non-technical procedures. The second amendment inserted a new clause

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of arrest, mandatory recording and digital display of arrest information in the General Diary (GD), access to a lawyer preferably within twelve hours of arrest, and the provision of necessary medical treatment where the arrestee is ill or injured.

The power of arrest without a warrant under section 54 has also been tightened. Newly inserted section 67A concerns accountability of the arresting authorities in cases of non-compliance or negligence. Additionally, section 167(2A) introduced that the physical condition of the accused may be examined both before and after police custody. To ensure effective supervision, senior police officials may call for an interim investigation report before submission of the final report under Section 173A.

CODE OF CIVIL PROCEDURE (AMENDMENT) ORDINANCE 2025

The Code of Civil Procedure 1908 has been amended to make it up to date. Compensation for false claims or defence has been raised to BDT 50,000 to prevent unnecessary harassment. To reduce procedural delays, Order V now recognises electronic modes of service of summons, including by Short Message Service (SMS), voice calls, and instant messaging services. Accordingly, the plaintiff must now include the mobile numbers, National Identity Numbers, and email addresses of both the plaintiff and the defendant. Further reforms to expedite proceedings include limiting adjournments before peremptory hearings (Order XVII), allowing up to ten suits per day (previously five), and increasing the total suits at the peremptory stage from 100 to 200 (Order XVIII, Rule 20). Additionally, Order XXI, Rule 104 allows a decree-holder to apply for execution of the decree within the same suit, eliminating the need to file a separate execution case and thereby reducing procedural complexity.

WOMEN AND CHILDREN REPRESSION PREVENTION (AMENDMENT) ORDINANCE 2025

Notable changes to this Act include the redefinition of rape to recognise that perpetrators of any gender may be held criminally liable, replacing the earlier definition, which presumed the perpetrator to be only male. The inclusion of the term "Balatkar" now recognises as rape any forced sexual act committed by any person involving the mouth or anus of a male child (sections 2(gg) and 9(2)). However, this protection is

under section 2 to define "organisation" broadly to include political parties and their affiliates, and inserted a new section 20B titled "Punishments, etc. for organisation," empowering the Tribunal to suspend, ban, or confiscate the property of organisations found involved in crimes. The harshest amendment came through the Third Amendment, which introduced a new section 20C. Going against the general norm that disqualification occurs only after conviction, this particular amendment states that an accused shall lose their eligibility and be disqualified from being elected or serving as a Member of Parliament as soon as a formal charge has been submitted against them under section 9(1). This provision also bars an accused from holding any key position within the service of the Republic. This amendment implied that these disqualifications will be effective throughout the entire trial and shall only cease if the accused is formally discharged or acquitted by the Tribunal.

CYBER PROTECTION ORDINANCE 2025

This Ordinance was introduced to replace the harsh Cyber Security Act 2023 (CSA). Even though the new Ordinance removed the contentious section 42 of the CSA (arrest without warrant); arguably, section 35 of the new Ordinance serves the same purpose with a safeguard clause as per article 33 of the Constitution. Additionally, the Ordinance retains punishment for technical crimes under sections 17-20, namely hacking, identity theft, and cyber-terrorism. Finally, offences committed under this new legislation have been made mostly bailable, thereby aiming to mitigate practices of indeterminate pre-trial detention that characterised the predecessor legislation.

BANGLADESH LABOUR (AMENDMENT) ORDINANCE 2025

The Ordinance made some essential changes to the Bangladesh Labour Act 2006 and is mainly intended to meet the EU roadmap and ILO convention requirements. The most important change is under section 179, which lowers the percentage requirement needed to establish a trade union for all factories, irrespective of their size. Lastly, this Ordinance has increased the imposed penalty for "unfair labour practices" under sections 294-295.

The writers are Official Contributors to Law & Our Rights, the Daily Star.

