

## Another Eid, another train tragedy

### How long will human negligence be tolerated?

It is unconscionable that every Eid, when we are supposed to be revelling in the chance to be with loved ones, tragedy strikes because of one transport-related accident or another. This Eid, too, saw the tragic deaths of 12 people—including seven men, three women, and two children—when a Chattogram-Dhaka mail train collided with a bus heading to Lakshmpur. A number of passengers were also seriously injured. The accident occurred early Sunday at an unmanned level crossing in Cumilla Sadar Dakshin upazila. Reportedly, the train dragged the bus for nearly a kilometre before stopping.

As has happened many times before, the reason for this horrific crash was negligence: there was no gateman present at the crossing at the time of the accident. How many times have we had to confront such news of precious lives being lost because of human error? Two gatemen who were on duty but actually absent at the time have been suspended, and three investigative committees have been formed. We have seen such reactive steps post-crashes many times before, and so cannot help but wonder: will it make any difference this time?

A major part of the problem, besides poor or absent gatekeeping and oversight, is the existence of illegal rail crossings that have been mushrooming despite the rising number of deaths from crashes. Over the four years between 2018 and 2022, according to a report by *The Daily Star*, various government agencies built at least 140 level crossings without taking permission from Bangladesh Railway. These agencies include the LGED, union parishads, municipalities, etc. In 2022, there were around 1,225 unauthorised crossings, making up roughly 40 percent of the total. Moreover, according to BR data cited in the report, more than 50 percent of the legal level crossings did not have designated gatekeepers.

The extent of the risks thus caused can be understood from an estimate by the Road Safety Foundation that said that at least 219 people were killed in 116 accidents in the first seven months of 2022 alone. That same year, in July, 11 people were killed when a train hit a microbus at a level crossing in Mirsharai upazila in Chattogram. It prompted the railways ministry to issue a circular to all government agencies, asking them not to build any level crossings without BR permission. Following this Eid's accident, the state minister for railways also said that the government plans to modernise level crossings and introduce automated signalling systems to improve safety.

But such assurances will only have meaning if they are backed by proper action, which rarely follows. Besides taking action against errant gatekeepers and officials in charge, whose negligence has contributed to so many deaths, we urge the government to identify all unattended crossings and appoint gatekeepers immediately. Unauthorised crossings must also be dealt with promptly, and only then should the government initiate other measures on a priority basis. We must remember that each day a crossing remains unattended is a day when tragedy may occur. The frequency of accidents, and the number of people killed or maimed, make human error at such crucial junctions unacceptable.

## Embed accountability at every stage

### Gazipur road collapse probe must set a precedent

The collapse of a newly constructed road in Gazipur last month—built at a cost of Tk 12 crore—highlighted the lack of responsibility and disregard for state resources among many civil servants who often remain unaccountable for such incidents. This time, however, a project director and an engineer were suspended after the state minister of Local Government, Rural Development and Cooperatives visited the site on Monday (March 23, 2026), following directives from the prime minister. Since initial probes revealed irregularities—including the use of substandard materials—the suspension order undoubtedly signals the correct course of action.

In the past, several newly constructed bridges, culverts, and regional roads have similarly failed. Probe bodies were formed, but often with no visible consequences. In this case, too, several committees were reportedly set up to investigate the February 15 road collapse, including a probe by the Anti-Corruption Commission. Yet, action came more than a month later, only after extensive media reporting, intervention by the prime minister, and a subsequent visit by the state minister. According to a report in this daily, the state minister formed yet another probe committee, dissolving the earlier ones, many of whose findings were never made public.

In a well-governed society—where corruption, nepotism, favouritism, and political influence do not shape infrastructure implementation—this Tk 12 crore road would not have undergone the above-mentioned fate. Irregularities, including the use of substandard materials or gaps in the proper execution of construction methods, would have been detected early rather than after completion. Transparency and accountability must be embedded at every stage, from project feasibility and tendering to construction. This raises the question: was there no routine and rigorous audit of the project during its implementation phase? Unfortunately, infrastructure projects are often awarded on political grounds, and failures to meet standards are overlooked. At most, contractors face financial penalties which rarely account for reconstruction costs or the broader public suffering caused.

We hope this time the course of action will be different. The government has an opportunity to set a precedent by conducting a transparent investigation, publishing its findings, and holding all responsible parties accountable for the irregularities and failure of the Gazipur road project. It must also ensure that internal audits of all infrastructure projects are carried out properly to guarantee transparency and accountability during the implementation phase, and not in the aftermath of a collapse.

# The July charter order has real legal authority



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The current discussion surrounding the July National Charter (Constitutional Reform) Implementation Order, 2025 stems largely from its nomenclature. Much of the debate has focused on whether the constitution empowers the president to issue a "president's order." Critics argue that such orders were permissible only during the immediate post-independence transition, up to the first sitting of parliament in April 1973, and that the present constitution contains no provision authorising an instrument of this kind. While this argument is not without basis, it ultimately misses the point.

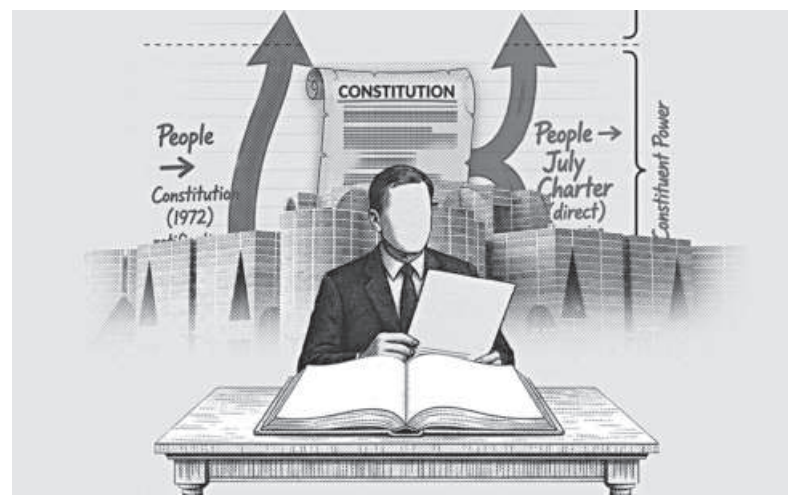
The label attached to the instrument is of little legal consequence. Whether it is called an "order" or otherwise is not determinative of its validity. The real question is not one of form but of substance: does the implementation order derive from a lawful source of authority? If it does, its nomenclature becomes irrelevant.

Critics insist that such authority must be found within the four corners of the 1972 constitution. But this assumption fails to engage with a deeper constitutional reality, one that has been clearly articulated in the recently released full judgment of the Appellate Division in the 13th Amendment case. The judgment affirms that the people, as the ultimate sovereign, retain constituent power, and this power is not extinguished upon the adoption of the constitution but continues to inhere in them. This is not merely a theoretical proposition; it provides the legal foundation for understanding moments of constitutional transformation—moments when authority flows not from the constitutional text but from the people themselves.

The July charter implementation order must be understood in this context. It was not the product of an ordinary exercise of constitutional power. It emerged from what can properly be described as a "constitutional moment" marked by widespread public engagement, mass mobilisation, and a fundamental reassessment of the

existing constitutional order. The events of July-August 2024 represented a rupture that reactivated popular sovereignty in its most direct form. To evaluate the implementation order solely against the provisions of the 1972 constitution is, therefore, to apply the standards of ordinary governance to an extraordinary constitutional transformation.

Critics may likely object that the constituent power of the people cannot be invoked once the constitution



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has been enacted, and that post enactment of the constitution, all powers must be traceable to the provisions of the constitution. However, this issue has now been addressed by the Appellate Division in the 13th Amendment judgment. The Appellate Division, while endorsing "modern constitutional scholarship (e.g. Böckenförde, Rubinfeld)," has held that "the constituent power does not expire after the Constitution's adoption but remains dormant within the people." The Appellate Division observed that the caretaker government provisions were enacted in exercise of the people's constituent power, which was triggered following mass mobilisations in the backdrop of a "crisis of electoral legitimacy," and that such an exercise of authority originate from a source

"superior to the text" of the constitution itself. In such cases, where an act reflects the direct sovereign will of the people, it may stand beyond the scope of ordinary constitutional limitations.

This principle is directly relevant to the present context. In August 2024, following the collapse of an authoritarian regime, the people of Bangladesh reactivated their constituent power. The establishment of the interim government and the subsequent reform process were not ordinary political developments but were expressions of this deeper constitutional authority. The implementation order forms part of that process, and its legitimacy is further reinforced by the overwhelming public endorsement it received in the referendum of February 12, 2026.

The continued existence of the 1972 constitution does not undermine this conclusion. It is sometimes

In times of crisis, the people may renegotiate that contract. The court pointed to the mass movement of 1990 and the demand for a neutral caretaker government as an example of such renegotiation, describing them not as ordinary amendments but as expressions of constituent power reshaping the constitutional order. The events of 2024 must be understood in similar terms. The mass uprising triggered a process through which the people sought to redefine the structure and functioning of the state, a process reflected in the establishment of various reform commissions and the broader constitutional reform agenda.

In this light, the search for a specific constitutional provision authorising the implementation order is fundamentally misplaced. No such provision exists, and none is required. The authority for the order lies not in Article 93 or any other provision of the constitution, but in the sovereign will of the people expressed during a constitutional moment. To insist on textual authorisation is, in effect, to deny the legal significance of that moment altogether.

The implementation order is thus best understood as an instrument of transitional constitutionalism. It does not displace the constitution but places it within a broader framework in which the people's sovereign prevails in moments of transformation. By providing for a referendum and a Constitution Reform Assembly, it channels that will into a structured and deliberative process.

The democratic legitimacy of this process is clear. The order was issued well before the referendum and understood by voters, who knew their representatives would serve both legislative and constituent roles. All major political parties campaigned in favour of the "Yes" vote in the referendum. The referendum, approved by a substantial majority, constitutes a direct expression of popular sovereignty. As the 13th Amendment judgment recognises, constitutional change may rest on broad popular consensus, a condition which has been clearly met here. The implementation order is thus not an anomaly but an expression of a foundational principle—that sovereignty resides in the people, and when exercised in their constituent capacity, their will has legal force. To deny its validity is to reduce popular sovereignty to a mere abstraction, an outcome that the 13th Amendment judgment firmly rejects.

# Why Bangladesh should declare Ganges treaty obsolete



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Bangladesh should declare the 1996 Ganges Water Treaty obsolete before negotiations formally begin, because the alternative is negotiating from a position of considerable weakness as India demands more water from rivers that climate change has already dried up.

India has already made its position fairly clear: shorter treaty (10-15 years instead of 30) and more water (additional 30,000-35,000 cusecs [cubic feet per second, the unit to measure water flow] during the lean season, also referred to as dry season, citing "development needs". Additionally, West Bengal wrote a letter to the Indian internal committee tasked with consulting the stakeholders in the Ganga Water Treaty outlining its increased "industrial and drinking water needs" in the renewed post-2026 treaty. Unless Bangladesh reframes this discussion by declaring obsolescence due to climate change, it will negotiate over dividing water that no longer exists as before and under a framework designed for extinct climate conditions.

According to a 2015 report citing residents of the Matikata Union in Rajshahi's Godagari area, before the commissioning of the Farakka Barrage, the Padma reached 100 feet deep during peaks, and 60 feet during lean periods. However, by 2015, some 18 years after the treaty, water levels came down to 15 feet during peaks and no water at all during dry seasons; the

level of underground water plummeted as well. The Barind Tract region—producing major rice crop portions—is turning barren. The 1996 treaty says Bangladesh and India share water "if there is water." Increasingly, there isn't. From 1997 to 2016, Bangladesh received less than its treaty shares in 94 of 300 cases. During critical dry spells, Bangladesh didn't receive the stipulated supply 39 times out of 60. Seventy-nine of Bangladesh's rivers are now dead or dying. This is what 30 years under the 1996 treaty helped produce. And India now wants less favorable terms.

India wants shorter treaty terms (10-15 years) that will give it more frequent negotiating leverage. It cites "climate change" but only as justification for taking more water, not for climate-adapted governance. This is nothing but extractive negotiation, not cooperative adaptation. We are currently facing an "unprecedented hydro-variability, where Himalayan glaciers are projected to decline by up to 40 percent by 2100." The Ganges basin experiences its worst droughts in 1,300 years. According to a 2023 study, climate change quadrupled flood-causing extreme monsoon rainfall events in Bangladesh and northeast India. Atmospheric rivers cause 73 percent of floods. The treaty allocates dry-season water but cannot manage droughts or flooding dominated by atmospheric floods. As Farhana Sultana said it in an article published

by *The Daily Star*, the treaty "treats water as divisible commodity... rather than shared, interconnected ecological system. It lacks flexible mechanisms for climate adaptation, enforceable environmental flow regimes, or joint data sharing platforms." In climate-stressed world, this static agreement "becomes another mechanism of control."

Climate extremes accelerate upstream erosion, filling reservoirs faster, forcing emergency releases during monsoons while sediment remains trapped. Research shows sediment could decline 15-80 percent if the extensive network of planned and under-construction dams across the Himalayan Ganges-Brahmaputra basin is completed. The 1996 treaty contains zero sediment provisions. Without sediment, Bangladesh's delta subsides at 5-7 mm yearly. Saltwater advanced 15-20 kilometres inland, up 64 percent since 1973. Bangladesh extracts around 32 cubic kilometres of groundwater annually, the vast majority for irrigation, with aquifer levels falling 15-20 mm yearly. In contrast, groundwater usage is increasingly surging. These compound crises cannot be addressed by negotiating slightly different dry-season allocations. They require climate-adapted transformation, which the 1996 framework was never designed to accommodate and India's position explicitly rejects.

If Bangladesh enters negotiations accepting 1996 framework validity, it accepts India's framing: this is about dividing existing water more favorably for India's "development." Bangladesh then negotiates from weakness, preserving inadequate allocations under voluntary framework that already failed while India demands more extraction. Declaring obsolescence based on climate change reframes everything. The problem, as we have already indicated, has

fundamentally changed over the years: anthropocentric forces including climate change created worst droughts in 1,300 years, quadrupled extreme weathers, triggered atmospheric river floods, and drove unprecedented groundwater depletion. The 1996 framework was never designed to address any of this; modifications cannot fix conceptual obsolescence.

If the crisis is systemic, the response requires rethinking how the river itself is governed. Climate-adapted sediment management—such as mandatory bypass during monsoon periods and minimum annual sediment delivery targets—can extend reservoir life upstream while restoring downstream systems Bangladesh depends on. Dam operations should be integrated with climate forecasting, allowing pre-release of water ahead of extreme events. Governance must be basin-wide, covering all tributaries and seasons, and include upstream actors like China on the Yarlung Tsangpo. Crucially, any new framework must move beyond voluntary compliance towards enforceable mechanisms with third-party monitoring, binding arbitration, and real consequences.

Around 74 percent of Ganga basin stations decline 17 percent per decade—climate models underestimated severity. Each year means worse droughts, more catastrophic floods, more trapped sediment, and more subsidence. India won't propose climate adaptation on its own—it will try to extract maximum advantage unless Bangladesh forces transformation by declaring them invalid. Bangladesh has scientific evidence, documented failures, moral authority, and climate reality to make that declaration. The question is whether it will use that evidence while its negotiating position remains available, or negotiate defensively within obsolete parameters.