

[To be Introduced in Parliament]

A

Bill

Further to amend certain provisions of the Constitution of the People's Republic of Bangladesh

WHEREAS it is expedient and necessary further to amend certain provisions of the Constitution of the People's Republic of Bangladesh for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**— (1) This Act may be called the Constitution (Fifteenth Amendment) Act, 2011.

(2) It shall come into force at once.

2. **Amendment in the beginning of the Constitution, above the Preamble.**— In the beginning of the Constitution, above the preamble, for the words, commas, signs and brackets “BISMILLAH-AR-RAHMAN-AR-RAHIM (In the name of Allah, the Beneficent, the Merciful)” the following shall be substituted, namely:-

“BISMILLAH-AR-RAHMAN-AR-RAHIM

(In the name of Allah, the Beneficent, the Merciful)/

In the name of the Creator, the Merciful.”

3. **Amendment of the Preamble of the Constitution.**— In the Preamble of the Constitution of the People's Republic of Bangladesh (hereinafter referred to as the “Constitution”), -

(a) in the first paragraph, for the words “ a historic war for national independence” the words “ a historic struggle for national liberation” shall be substituted; and

(b) for the second paragraph the following shall be substituted, namely:-

“Pledging that the high ideals of nationalism, socialism, democracy and secularism, which inspired our heroic people to dedicate themselves to, and our brave martyrs to sacrifice their lives in, the national liberation struggle, shall be the fundamental principles of the Constitution;”

4. **Substitution of article 2A of the Constitution.**—In the Constitution, for article 2A, the following article 2A shall be substituted, namely:-

“2A. **The State religion.**- The State religion of the Republic is Islam, but the State shall ensure equal status and equal right in the practice of the Hindu, Buddhist, Christian and other religions.”.

5. **Substitution of article 4A of the Constitution.**—In the Constitution, for article 4A, the following article 4A shall be substituted, namely:-

“4A. **The portrait of the Father of the Nation.**—The portrait of the Father of the Nation, Bangabandhu Sheikh Mujibur Rahaman shall be preserved and displayed at the offices of the President, the Prime Minister, the Speaker and the Chief Justice and in head and branch offices of all government and semi-government offices, autonomous bodies, statutory public authorities, government and non-government educational institutions, embassies and missions of Bangladesh abroad.”.

6. **Substitution of article 6 of the Constitution.**- In the Constitution, for article 6, the following article 6 shall be substituted, namely:-

“6. **Citizenship.**- (1) The citizenship of Bangladesh shall be determined and regulated by law.

(2) The People of Bangladesh shall be known as Bangalees as a nation and the citizens of Bangladesh shall be known as Bangladeshies.”.

7. **Insertion of new articles 7A and 7B in the Constitution.** - In the Constitution, after article 7 the following two new articles 7A and 7B shall be inserted, namely:-

“7A. **Offence of abrogation, suspension, etc. of the Constitution.**- (1) If any person, by show of force or use of force or by other unconstitutional means-

(a) abrogates, repeals or suspends or attempts or conspires to abrogate, repeal or suspend this Constitution or any of its article; or

(b) subverts or attempts or conspires to subvert the confidence, belief or reliance of the citizens to this Constitution or any of its article,

his such act shall be sedition and such person shall be guilty of sedition.

- (2) If any person-
 - (a) abets or instigate any act mentioned in clause (1); or
 - (b) approves, condones, supports or ratifies such act,
 his such act shall also be the same offence.
- (3) Any person alleged to have committed the offence mentioned in this article shall be sentenced with the highest punishment prescribed by the existing laws.

7B. Basic provisions of the Constitution are not amendable .- Notwithstanding anything contained in article 142 of the Constitution, the preamble, all articles of part I, all articles of Part II, all articles of Part III, subject to the provisions of the articles mentioned in Part IXA and the provisions of the articles relating to the other basic structures of the Constitution including article 150 of Part XI shall not be amendable by way of insertion, modification, substitution, repeal or by any other means.” .

8. Amendment of article 8 of the Constitution.—In the Constitution, in article 8, for clauses (1) and (1A), the following clause (1) shall be substituted, namely:—

“(1) The principles of nationalism, socialism, democracy and secularism, together with the principles derived from those as set out in this Part, shall constitute the fundamental principles of state policy.”.

9. Substitution of article 9 of the Constitution.— In the Constitution, for article 9, the following article 9 shall be substituted, namely:-

“**9. Nationalism.**— The unity and solidarity of the Bangalee nation, which, deriving its identity from its language and culture, attained sovereign and independent Bangladesh through a united and determined struggle in the war of independence, shall be the basis of Bangalee nationalism.”.

10. Substitution of article 10 of the Constitution.— In the Constitution, for article 10, the following article 10 shall be substituted, namely:-

“**10. Socialism and freedom from exploitation.**— A socialist economic system shall be established with a view to ensuring the attainment of a just and egalitarian society, free from the exploitation of man by man.”.

11. **Revival of omitted article 12 of the Constitution.**—In the Constitution, for the omitted article 12, the following article 12 shall be revived, namely:-

“12. **Secularism and freedom of religion.**—The principle of secularism shall be realised by the elimination of-

- (a) communalism in all its forms;
- (b) the granting by the State of political status in favour of any religion;
- (c) the abuse of religion for political purposes;
- (d) any discrimination against, or persecution of, persons practicing a particular religion.”

12. **Insertion of new article 18A.**— In the Constitution, after article 18, the following new article 18A shall be inserted, namely:-

“18A. **Protection and improvement of environment and bio-diversity.**— The State shall endeavour to protect and improve the environment and to safeguard the natural resources, bio-diversity, wetlands, forests and wild life for the present and future citizens.”

13. **Amendment of article 19 of the Constitution.**— In the Constitution, in article 19, after clause (2), the following new clause (3) shall be inserted, namely:-

“(3) The State shall endeavour to ensure equality of opportunity and participation of women in all spheres of national life.”

14. **Insertion of new article 23A in the Constitution.**— In the Constitution, after article 23, the following new article 23A shall be inserted, namely:-

“23A. **The culture of tribes, minor races, ethnic sects and communities.**— The State shall take steps to protect and develop the unique local culture and tradition of the tribes, minor races, ethnic sects and communities.”

15. **Amendment of article 25 of the Constitution.**— In the Constitution, in article 25, -

- (i) in clause (1), the figure and brackets “(1)” shall be omitted; and
- (ii) clause (2) shall be omitted.

16. Substitution of article 38 of the Constitution.—In the Constitution, for article 38, the following article 38 shall be substituted, namely:—

“38. **Freedom of association.**— Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interests of morality or public order:

Provided that no person shall have the right to form, or be a member of the said association or union, if—

- (a) it is formed for the purposes of destroying the religious, social and communal harmony among the citizens;
- (b) it is formed for the purposes of creating discrimination among the citizens, on the ground of religion, race, caste, sex, place of birth or language;
- (c) it is formed for the purposes of organizing terrorist acts or militant activities against the State or the citizens or any other country;
- (d) its formation and objects are inconsistent with the Constitution.”

17. Substitution of clauses (2) and (3) of article 42 of the Constitution.—In the Constitution, for clauses (2) and (3) of article 42, the following clause (2) shall be substituted, namely:—

“(2) A law made under clause (1) of this article shall provide for the acquisition, nationalisation or requisition with compensation and shall fix the amount of compensation or specify the principles on which, and the manner in which, the compensation is to be assessed and paid; but no such law shall be called in question in any court on the ground that any provision of the law in respect of such compensation is not adequate.”

18. Substitution of article 44 of the Constitution.—In the Constitution, for article 44, the following article 44 shall be substituted, namely:—

“44. **Enforcement of fundamental rights.**—(1) The right to move the High Court Division in accordance with clause (1) of article 102, for the enforcement of the rights conferred by this Part is guaranteed.

(2) Without prejudice to the powers of the High Court Division under article 102, Parliament may by law empower any other court, within the local limits of its jurisdiction, to exercise all or any of those powers.”

19. **Amendment of article 47 of the Constitution.**—In the Constitution, in article 47,—

(i) in clause (2), for the proviso, the following proviso shall be substituted, namely:—

“Provided that nothing in this article shall prevent amendment, modification or repeal of any such law.”; and

(ii) in clause (3), after the words “auxiliary forces” the words and comma “or any individual, group of individuals or organisation” shall be inserted.

20. **Omission of article 58A of the Constitution.**—In the Constitution, article 58A shall be omitted.

21. **Omission of CHAPTER IIA - NON-PARTY CARE-TAKER GOVERNMENT of the Constitution.**—In the Constitution, “CHAPTER IIA-NON-PARTY CARE-TAKER GOVERNMENT” shall be omitted.

22. **Substitution of article 61 of the Constitution.**— In the Constitution, for article 61, the following article 61 shall be substituted, namely:—

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“61. **Supreme command.**—The supreme command of the defence services of Bangladesh shall vest in the President and the exercise thereof shall be regulated by law.”.

23. **Amendment of article 65 of the Constitution.**—In the Constitution in article 65,—

(i) in clause (3), for the words “forty five seats” the words “fifty seats” shall be substituted; and

(ii) after clause (3), the following clause (3A) shall be inserted, namely:—

“(3A) Parliament shall consist of three hundred members elected by direct election provided for in clause (2) and fifty women members provided for in clause (3) for the remaining period of the Parliament in existence at the time of the commencement of the Constitution (Fifteenth Amendment) Act, 2011.”.

24. **Amendment of article 66 of the Constitution.**— In the Constitution, in article 66,—

(i) in clause (2), sub-clause (dd) shall be omitted;

(ii) after the omitted sub-clause (dd), the following new sub-clauses (e) and (f) shall be inserted, namely:—

“(e) has been convicted of any offence under the Bangladesh Collaborators (Special Tribunals) Order, 1972;

(f) holds any office of profit in the service of the Republic other than an office which is declared by law not to be disqualified its holder; or”; and

(iii) for clause (2A), the following clause (2A) shall be substituted, namely:—

“(2A) Notwithstanding anything contained in sub-clause (c) of clause (2) of this article, if any person being a citizen of Bangladesh by birth acquires the citizenship of a foreign State and thereafter such person—

(i) in the case of dual citizenship, gives up the foreign citizenship; or

(ii) in other cases, again accepts the citizenship of Bangladesh—

for the purposes of this article, he shall not be deemed to acquire the citizenship of a foreign State.

(iv) after clause (2B), the following clause (3) shall be inserted, namely:—

“(3) For the purposes of this article, a person shall not be deemed to hold an office of profit in the service of the Republic by reason only that he is the President, the Prime Minister, the Speaker, the Deputy Speaker, a Minister, Minister of State or Deputy Minister.”.

25. Substitution of article 70 of the Constitution.—In the Constitution, for article 70, the following article 70 shall be substituted, namely:—

“70. Vacation of seat on resignation or voting against political party.— A person elected as a member of Parliament at an election at which he was nominated as a candidate by a political party shall vacate his seat if he—

(a) resigns from that party; or

(b) votes in Parliament against that party;

but shall not thereby be disqualified for subsequent election as a member of Parliament.”.

(c) **26. Amendment of article 80 of the Constitution.**—In the Constitution, in article 80,—

- (i) in clause (3), the words “or declare that he withholds assent therefrom” shall be omitted; and
- (ii) in clause (4), the words “by the votes of a majority of the total number of members of Parliament” shall be omitted.

27. Amendment of article 82 of the Constitution.—In the Constitution, in article 82, in the proviso, after the words “provided that” the words “in any Money Bill” shall be inserted.

28. Amendment of article 93 of the Constitution.—In the Constitution, in article 93, in clause (1), the words “Parliament stands dissolved or is not in session” shall be retained.

29. Substitution of article 95 of the Constitution.—In the Constitution, for article 95, the following article 95 shall be substituted, namely:—

“**95. Appointment of Judges.**—(1) The Chief Justice shall be appointed by the President, and the other Judges shall be appointed by the President after consultation with the Chief Justice.

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(2) A person shall not be qualified for appointment as a Judge unless he is a citizen of Bangladesh and—

- (a) has, for not less than ten years, been an advocate of the Supreme Court; or
- (b) has, for not less than ten years, held judicial office in the territory of Bangladesh; or
- (c) has such qualifications as may be prescribed by law for appointment as a Judge of the Supreme Court.

(3) In this article “Supreme Court” includes a court which at any time before the commencement of this Constitution exercised jurisdiction as a High Court in the territory of Bangladesh.”

30. Substitution of article 96 of the Constitution.—In the Constitution, for article 96, the following article 96 shall be substituted, namely:—

“**96. Tenure of office of Judges.**—(1) Subject to the other provisions of this article, a Judge shall hold office until he attains the age of sixty seven years.

(2) A Judge shall not be removed from his office except in accordance with the following provisions of this article.

(3) There shall be a Supreme Judicial Council, in this article referred to as the Council, which shall consist of the Chief Justice of Bangladesh, and the two next senior Judges:

Provided that if, at any time, the Council inquiring into the capacity or conduct of a Judge who is a member of the Council, or a member of the Council is absent or is unable to act due to illness or other cause, the Judge who is next in seniority to those who are members of the Council shall act as such member.

(4) The functions of the Council shall be—

(a) to prescribe a Code of Conduct to be observed by the Judges; and

(b) to inquire into the capacity or conduct of a Judge or of any other functionary who is not removable from office except in like manner as a Judge.

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(5) Where, upon any information received from the Council or from any other source, the President has reason to apprehend that a Judge—

(a) may have ceased to be capable of properly performing the functions of his office by reason of physical or mental incapacity; or

(b) may have been guilty of gross misconduct, the President may direct the Council to inquire into the matter and report its finding.

(6) If, after making the inquiry, the Council reports to the President that in its opinion the Judge has ceased to be capable of properly performing the functions of his office or has been guilty of gross misconduct, the President shall, by order, remove the Judge from office.

(7) For the purpose of an inquiry under this article, the Council shall regulate its procedure and shall have, in respect of issue and execution of processes, the same power as the Supreme Court.

(8) A Judge may resign his office by writing under his hand addressed to the President.”

31. Amendment of article 98 of the Constitution.—In the Constitution, in article 98, for the words and commas “may require a Judge of the High Court Division to sit in the Appellate Division for any temporary period as an ad hoc Judge and such Judge while so sitting, shall exercise the same jurisdictions, powers and functions as a Judge of the Appellate Division” the words and comma “may require a Judge of the High Court Division to sit in the Appellate Division for any temporary period” shall be substituted.

32. Substitution of article 99 of the Constitution.—In the Constitution, for article 99, the following article 99 shall be substituted, namely:—

“99. **Disabilities of Judges after retirement.**—(1) A person who has held office as a Judge (otherwise than as an additional Judge pursuant to the provisions of article 98) shall not after his retirement or removal therefrom, plead or act before any court or authority or hold any office of profit in the service of the Republic not being a Judicial or quasi-judicial office.

(2) Nothing contained in clause (1), a person who has held office as a Judge of the High Court Division may, after his retirement or removal therefrom, plead or act before the Appellate Division.”.

33. Substitution of article 100 of the Constitution.— In the Constitution, for article 100, the following article 100 shall be substituted, namely:—

“100. **Seat of Supreme Court.**—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.”.

34. Substitution of article 101 of the Constitution.—In the Constitution, for article 101, the following article 101 shall be substituted, namely:—

“101. **Jurisdiction of High Court Division.**—The High Court Division shall have such original, appellate and other jurisdictions and powers as are conferred on it by this Constitution or any other law.”.

35. Substitution of article 102 of the Constitution.—In the Constitution, for article 102, the following article 102 shall be substituted, namely:—

“102. **Powers of High Court Division to issue certain orders and directions, etc.**—(1) The High Court Division, on the application of any person aggrieved, may give such directions or orders to any person or authority, including any person performing any function in connection with the affairs of the Republic, as may be appropriate for the enforcement of any of the fundamental rights conferred by Part III of this Constitution.

(2) The High Court Division may, if satisfied that no other equally efficacious remedy is provided by law—

(a) on the application of any person aggrieved, make an order—

(i) directing a person performing any functions in connection with the affairs of the Republic or of a local authority, to refrain from doing that which he is not permitted by law to do or to do that which he is required by law to do; or

(ii) declaring that any act done or proceeding taken by a person performing functions in connection with the affairs of the Republic or of a local authority has been done or taken without lawful authority, and is of no legal effect; or

(b) on the application of any person, make an order—

(i) directing that a person in custody be brought before it so that it may satisfy itself that he is not being held in custody without lawful authority or in an unlawful manner; or

(ii) requiring a person holding or purporting to hold a public office to show under what authority he claims to hold that office.

(3) Notwithstanding anything contained in the foregoing clauses, the High Court Division shall have no power under this article to pass any interim or other order in relation to any law to which article 47 applies.

(4) Whereon an application made under clause (1) or sub-clause (a) of clause (2) of this article, an interim order is prayed for and such interim order is likely to have the effect of—

(a) prejudicing or interfering with any measure designed to implement any development programme, or any development work; or

(b) being otherwise harmful to the public interest, the High Court Division shall not make an interim order unless the Attorney-General has been given reasonable notice of the application and he (or an advocate authorised by him in that behalf) has been given an opportunity of being heard, and the High Court Division is satisfied that the interim order would not have the effect referred to in sub-clause (a) or sub-clause (b).

(5) In this article, unless the context otherwise requires, “person” includes a statutory public authority and any court or tribunal, other than a court or tribunal established under a law relating to the defence services of Bangladesh or any discipline force or a tribunal to which article 117 applies.

36. Amendment of article 103 of the Constitution.—In the Constitution, in article 103, in clause (2), for sub-clause (b), the following sub-clause (b) shall be substituted, namely:—

“(b) has confirmed a sentence of death or sentenced a person to death or to imprisonment for life; or”.

37. Amendment of article 107 of the Constitution.—In the Constitution, in article 107, for clauses (2) and (3), the following clauses (2) and (3) shall be substituted, namely:—

“(2) The Supreme Court may delegate any of its functions under clause (1) of this article and article 113 and 116 to a division of that Court or to one or more judges.

(3) Subject to any rules made under this article, the Chief Justice shall determine which Judges are to constitute any Bench of a division of the Supreme Court and which Judges are to sit for any purpose.”.

38. Substitution of article 116 of the Constitution.—In the Constitution, for article 116, the following article 116 shall be substituted, namely:—

“116. **Control and discipline of subordinate courts.**—The control (including the power of posting, promotion and grant of leave) and discipline of persons employed in the judicial service and magistrates exercising judicial functions shall vest in the President and shall be exercised by him in consultation with the Supreme Court.”.

39. Amendment of article 118 of the Constitution.—In the Constitution, in article 118, in clause (1), for the words and commas “a Chief Election Commissioner and such number of other Election Commissioners if any, as the President may from time to time direct “the words” the Chief Election Commissioner and not more than four Election Commissioners” shall be substituted.

40. Amendment of article 122 of the Constitution.—In the Constitution, in article 122, in clause (2), for the sub-clauses (c) and (d), the following sub-clauses (c), (d) and (e) shall be substituted, namely:—

“(c) does not stand declared by a competent court to be of unsound mind;

(d) is or is deemed by law to be a resident of that constituency; and

(e) has not been convicted of any offence under the Bangladesh Collaborators (Special Tribunals) Order, 1972.”.

41. **Amendment of article 123 of the Constitution.**— In the Constitution, in article 123, for clause (3), the following clause (3) shall be substituted, namely:—

“(3) A general election of the members of Parliament shall be held—

(a) in the case of a dissolution by reason of the expiration of its term, within the period of ninety days preceding such dissolution; and

(b) in the case of a dissolution otherwise than by reason of such expiration, within ninety days after such dissolution:

Provided that the persons elected at a general election under sub-clause (a) shall not assume office as members of Parliament except after the expiration of the term referred to therein.”

42. **Amendment of article 141A of the Constitution.**— In the Constitution, in article 141A,—

(a) in clause (1), after the words “he may” the words “for one hundred twenty days” shall be inserted;

(b) in clause (2), in sub-clause (c), the words and comma “, unless before the expiration of that period it has been approved by a resolution of Parliament” shall be omitted;

(c) in the proviso of clause (2), after the words “at the expiration of thirty days” the words and commas “or at the expiration of one hundred and twenty days, whichever occurs first,” shall be inserted.

43. **Substitution of article 142 of the Constitution.**— In the Constitution, for article 142, the following article 142 shall be substituted, namely:—

“142. **Power to amend any provision of the Constitution.**— Notwithstanding anything contained in this Constitution —

(a) any provision thereof may be amended by way of addition, alteration, substitution or repeal by Act of Parliament:

Provided that —

(i) no Bill for such amendment shall be allowed to proceed unless the long title thereof expressly states that it will amend a provision of the Constitution;

(ii) no such Bill shall be presented to the President for assent unless it is passed by the votes of not less than two-thirds of the total number of members of Parliament;

- (b) when a Bill passed as aforesaid is presented to the President for his assent he shall, within the period of seven days after the Bill is presented to him assent to the Bill, and if he fails so to do he shall be deemed to have assented to it on the expiration of that period.”.

44. Substitution of article 145A of the Constitution.—In the Constitution, for article 145A, the following article 145A shall be substituted, namely:—

“145A. **International treaties.**—All treaties with foreign countries shall be submitted to the President, who shall cause them to be laid before Parliament:

Provided that any such treaty connected with national security shall be laid in a secret session of Parliament.”.

45. Amendment of article 147 of the Constitution.—In the Constitution, in article 147, in clause (4),—

- (i) for sub-clause (b), the following sub-clause (b) shall be substituted, namely:—

“(b) Prime Minister;” and

- (ii) for sub-clause (d), the following sub-clause(d) shall be substituted, namely:—

“(d) Minister, Minister of State or Deputy Minister;”.

46. Substitution of article 150 of the Constitution.—In the Constitution, for article 150, the following article 150 shall be substituted, namely:—

“150. **Transitional and temporary provisions.**—(1) The provisions set out in the Fourth Schedule of the Constitution at the time of the commencement of this Constitution on the 16th day of December, 1972 shall have effect as transitional and temporary provisions notwithstanding anything contained in any other provisions of this Constitution.

(2) In the period between the 7th day of March, 1971 and the date of commencement of this Constitution on the 16th day of December, 1972, the historical speech delivered by BangaBandhu Sheikh Mujibur Rahaman, the Father of the Nation, in the Rescource Moidan on the 7th day of March, 1971, set out in the Fifth Schedule of the Constitution, the telegram of the declaration of independence of Bangladesh made by Sheikh Mujibur Rahaman, the Father of the Nation on the 26th day of March, 1971 set out in the Sixth Schedule and the proclamation of independence of the Mujibnagar Government on the 10th day of April, 1971 set out in the Seventh Schedule are the historical speech and instruments of the independence and the struggle of freedom of Bangladesh which shall be deemed to be the transitional and the temporary provision for the said period.”.

47. Amendment of article 152 of the Constitution.—In this Constitution, in article 152, in clause (1),—

- (a) The expression “Advisor” shall be omitted;
- (b) after the expression “clause”, the following new expression shall be inserted, namely:—

““court” means any court of law including Supreme Court;” and

- (c) the expression “Chief Advisor” shall be omitted.

48. Amendment of First Schedule of the Constitution.—In Constitution, in the First Schedule, after the words, figures, comma, brackets and full stop “The Bangladesh (Taking over of Control and Management of Industrial and Commercial Concerns) Order, 1972 (A.P.O No.1 of 1972) the words, figures, comma, brackets and full stop “The Bangladesh Collaborators (Special Tribunals) Order, 1972 (P.O.No.8 of 1972).” shall be inserted.

49. Amendment of the Third Schedule of the Constitution.—In the Constitution, in the Third Schedule,—

- (a) In Form 1, for the words “Chief Justice” the word “Speaker” shall be substituted;

- (b) Form 1A shall be omitted;

- (c) In Form 2, the word “Prime Minister” shall be retained; and

- (d) Form 2A shall be omitted.

50. Amendment of the Fourth Schedule of the Constitution.—In the Constitution, in the Fourth Schedule,—

- (a) For the word and figure “Article 150”, the word, figure and brackets “Article 150(1)” shall be substituted; and

- (b) Articles 3A, 18, 19, 20, 21, 22 and 23 shall be omitted.

51. Addition of several new Schedules in the Constitution.—In the Constitution, after the Fourth Schedule the following new Schedules respectively Fifth, Sixth and Seventh shall be added, namely:—

“FIFTH SCHEDULE

[Article 150(2)]

HISTORIC SPEECH OF THE FATHER OF THE NATION, BANGABANDHU
SHEIKH MUJIBUR RAHAMAN OF THE 7TH MARCH, 1971

My brothers,

I come before you today with a heart laden with sadness. You are aware of everything and know all. We have tried with our lives. And yet the sadness remains that today, in Dhaka, Chittagong, Khulna, Rajshahi and Rangpur the streets are soaked in the blood of my brothers. Today the people of Bengal desire emancipation, the people of Bengal wish to live, the people of Bengal demand that their rights be acknowledged.

What wrong have we committed? Following the elections, the people of Bangladesh entrusted me and the Awami League with the totality of their electoral support. It was our expectation that the Parliament would meet, there we would frame our Constitution, that we would develop this land, that the people of this country would achieve their economic, political and cultural freedom. But it is a matter of grief that today we are constrained to say in all sadness that the history of the past twenty three years has been the history of a persecution of the people of Bengal, a history of the blood of the people of Bengal. This history of the past twenty three years has been one of the agonising cries of men and women.

The history of Bengal has been a history where the people of this land have made crimson the streets and highways of this land with their blood. We gave blood in 1952; in 1954, we won the elections and yet were not permitted to exercise power. In 1958, Ayub Khan imposed Martial Law and kept the nation in a state of slavery for ten long years. On 7 June 1966, as they rose in support of the Six-Point movement, the sons of my land were mown down in gunfire. When Yahya Khan took over once Ayub Khan fell in the fury of the movement of 1969, he promised that he would give us a Constitution, give us democracy. We put our faith on him. And then history moved a long way, the elections took place. I have met President Yahya Khan. I appealed to him, not just as the majority leader in Bengal but also as the majority leader in Pakistan, to convene the National Assembly on 15 February. He did not pay heed to my appeal. He paid heed to Mr. Bhutto. And he said that the assembly would be convened in the first week of March. I went along with him and said we would sit in the parliament. I said that we would discuss matters in the Assembly. I even went to the extent of suggesting that despite our being in a majority, if anyone proposes anything that is legitimate and right, we would accept his proposal.

Mr. Bhutto came here. He held negotiations with us, and when he left, he said that the door to talk had not closed, that more discussions would take place. After that, I spoke to other political leaders. I told them to join me in deliberations so that we could give shape to a Constitution for the country. But Mr. Bhutto said that if members elected from West Pakistan came here, the Assembly would turn into a slaughter house, an abattoir. He warned that anyone who went to the Assembly would end up losing his life. He issued dire warnings of closing down all the shop from Peshawar to Karachi if the Assembly Session went ahead. I said that the Assembly Session would go ahead. And then, suddenly, on the first of March the Assembly Session was put off. Mr. Yahya Khan, in exercise of his powers as president, had called the National Assembly into Session; and I had said that I would go to the Assembly. Mr. Bhutto said he would not go. Thirty five members came here from West Pakistan. And suddenly the Assembly was put off. The blame was placed squarely on the people of Bengal, the blame was put at my door. Once the Assembly meeting was postponed, the people of this land decided to put up resistance to the act.

I enjoined upon them to observe a peaceful general strike. I instructed them to close down all factories and industrial installations. The people responded positively to my directives. Through sheer spontaneity they emerged on to the streets. They were determined to pursue their struggle through peaceful means.

What have we attained? The weapons we have bought with our money to defend the country against foreign aggression are being used against the poor and down-trodden of my country today. It is their hearts the bullets pierce today. We are the majority in Pakistan. Whenever we Bengalis have attempted to ascend to the heights of power, they have swooped upon us.

I have spoken to him over telephone. I told him, "Mr. Yahya Khan, you are the President of Pakistan. Come, be witness to the inhuman manner in which the people of my Bengal are being murdered, to the way in which the mothers of my land are being deprived of their sons." I told him, "come, see and dispense justice". But he construously said that I had agreed to participate in a Round Table Conference to be held on 10 March. I have already said a long time ago, what RTC? With whom do I sit down to talk? Do I fraternise with those who have taken the blood of my people? All of a sudden, without discussing matters with me and after a secret meeting lasting five hours, he has delivered a speech in which he has placed all responsibility for the impasse on me, on the people of Bengal.

My brothers,

They have called the Assembly for the twenty-fifth. The marks of blood have not yet dried up. I said on the tenth that Mujibur Rahman would not walk across that blood to take part in a Round Table Conference. You have called the Assembly. But my demands must be met first. Martial Law must be withdrawn. All military personnel must be taken back to the barracks. An inquiry must be conducted into the manner in which the killings have been caused. And power must be transferred to the elected representatives of the people. And only then shall we consider the question of whether or not to sit in the National Assembly. Prior to the fulfilment of our demands, we cannot take part in the Assembly.

I do not desire the office of Prime Minister. I wish to see the rights of the people of this country established. Let me make it clear, without ambiguity, that beginning today, in Bangladesh, all courts, magistracies, government offices and educational institutions will remain closed for an indefinite period. In order that the poor do not suffer, in order that my people do not go through pain, all other activities will continue, will not come within the ambit of the general strike from tomorrow. Rickshaws, horse carriages, trains and river vessels will ply. The Supreme Court, High Court, Judge's Court, semi-government offices, WAPDA, nothing will work. Employees will collect their salaries on the twenty-eighth. But if the salaries are not paid, if another bullet is fired, if any more of the people are murdered, it is my directive to all of you: turn every house into a fortress, resist the enemy with everything you have. And for the sake of life, even if I am not around to guide you, direct you, close off all roads and pathways.

We will strive them into submission. We will submerge them in water. You are our brothers. Return to your barracks and no harm will come to you. But do not try to pour bullets into my heart again. You cannot keep seventy five million people in bondage. Now that we have learnt to die, no power on earth can keep us in subjugation.

For those who have embraced martyrdom, and for those who have sustained injuries we in the Awami League will do all we can to relieve their tragedy. Those among you who can please lend a helping hand through contributing to our relief committee. The owners of industries will make certain that the wages of workers who have taken part in the strike for the past week are duly paid to them. I shall tell employees of the government, my word must be heard, and my instructions followed. Until freedom comes to my land, all taxes will be held back from payment. No one will pay them. Bear in mind that the enemy has

infiltrated our ranks to cause confusion and sow discord among us. In our Bengal, everyone, be he Hindu or Muslim, Bengali or non-Bengali, is our brother. It is our responsibility to ensure their security. Our good name must not be sullied.

And remember, employees at radio and television, if radio does not get our message across, no Bengali will go to the radio station. If television does not put forth our point of view, no Bengali will go to television. Banks will remain open for two hours to enable people to engage in transactions. But there will be no transfer of even a single penny from East Bengal to West Pakistan. Telephone and telegram services will continue in East Bengal and news can be despatched overseas.

But if moves are made to exterminate the people of this country, Bengalis must act with caution. In every village, every neighbourhood, set up Sangram Parishad under the leadership of the Awami League. And be prepared with whatever you have. Remember: Having mastered the lesson of sacrifice, we shall give more blood. God willing, we shall free the people of this land. The struggle this time is a struggle for emancipation. The struggle this time is a struggle for independence.

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Joi Bangla!

AND

WHEREAS instead of fulfilling their promise to the people of Bangladesh, the Pakistani authorities declared an unjust and treacherous war against Bangladesh;

AND

WHEREAS in the facts and circumstances of such treacherous conduct, Bangabandhu Sheikh Mujibur Rahman, the undisputed leader of 75 million of people of Bangladesh, in due fulfilment of the legitimate right of self-determination of the people of Bangladesh, duly made a declaration of independence at Dacca on March 26, 1971, and urged the people of Bangladesh to defend the honour and integrity of Bangladesh;

AND

WHEREAS in the conduct of a ruthless and savage war the Pakistani authorities committed and are still continuously committing numerous acts of genocide and unprecedented tortures, amongst others on the civilian and unarmed people of Bangladesh;

AND

SIXTH SCHEDULE

[Article 150(2)]

DECLARATION OF INDEPENDENCE

BY

THE FATHER OF THE NATION, BANGABANDHU SHEIKH MUJIBUR RAHAMAN SHORTLY AFTER MIDNIGHT OF 25TH MARCH, i.e. EARLY HOURS OF 26TH MARCH, 1971

“This may be my last message, from today Bangladesh is independent. I call upon the people of Bangladesh wherever you might be and with whatever you have, to resist the army of occupation to the last. Your fight must go on until the last soldier of the Pakistan occupation army is expelled from the soil of Bangladesh and final victory is achieved.”

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that the President shall be the Supreme Commander-in-Chief of all the Armed Forces of the Republic,

shall exercise all the Executive and Legislative Powers of the Republic including the power to grant pardon,

shall have the power to appoint a Prime Minister and such other Ministers as he considers necessary,

shall have the power to levy taxes and impose duties,

shall have the power to summon and adjourn the Constituent Assembly, and

do all other things that may be necessary to give to the people of Bangladesh an orderly and just Government.

We the elected representatives of the people of Bangladesh do further resolve that in the event of there being no President or the President being unable to enter upon his office or being unable to exercise his powers due to any reason whatsoever, the Vice-President shall have and exercise all the powers, duties and responsibilities herein conferred on the President.

We further resolve that we undertake to observe and give effect to all duties and obligations that devolve upon us as a member of the family of nations and to abide by the Charter of the United Nations.

SEVENTH SCHEDULE

[Article 150 (2)]

THE PROCLAMATION OF INDEPENDENCE

MUJIBNAGAR, BANGLADESH

Dated 10th day of April, 1971.

WHEREAS free elections were held in Bangladesh from 7th December, 1970 to 17th January, 1971, to elect representatives for the purpose of framing a Constitution,

AND

WHEREAS at these elections the people of Bangladesh elected 167 out of 169 representatives belonging to the Awami League,

AND

WHEREAS General Yahya Khan summoned the elected representatives of the people to meet on the 3rd March, 1971, for the purpose of framing a Constitution,

AND

WHEREAS the Assembly so summoned was arbitrarily and illegally postponed for an indefinite period,

AND

WHEREAS instead of fulfilling their promise and while still conferring with the representatives of the people of Bangladesh, Pakistan authorities declared an unjust and treacherous war,

AND

WHEREAS in the facts and circumstances of such treacherous conduct BangaBandhu Sheikh Mujibur Rahaman, the undisputed leader of 75 million of people of Bangladesh, in due fulfilment of the legitimate right of self-determination of the people of Bangladesh, duly made a declaration of independence at Dacca on March 26, 1971, and urged the people of Bangladesh to defend the honour and integrity of Bangladesh,

AND

WHEREAS in the conduct of a ruthless and savage war the Pakistani authorities committed and are still continuously committing numerous acts of genocide and unprecedented tortures, amongst others on the civilian and unarmed people of Bangladesh,

AND

WHEREAS the Pakistan Government by levying an unjust war and committing genocide and by other repressive measures made it impossible for the elected representatives of the people of Bangladesh to meet and frame a Constitution, and give to themselves a Government,

AND

WHEREAS the people of Bangladesh by their heroism, bravery and revolutionary fervour have established effective control over the territories of Bangladesh,

We the elected representatives of the people of Bangladesh, as honour bound by the mandate given to us by the people of Bangladesh whose will is supreme duly constituted ourselves into a Constituent Assembly, and

having held mutual consultations, and
in order to ensure for the people of Bangladesh equality, human dignity and social justice,

declare and constitute Bangladesh to be a sovereign People's Republic and thereby confirm the declaration of independence already made by BangaBandhu Sheikh Mujibur Rahaman, and

do hereby affirm and resolve that till such time as a Constitution is framed, BangaBandhu Sheikh Mujibur Rahaman shall be the President of the Republic and that Syed Nazrul Islam shall be the Vice-President of the Republic, and

that the President shall be the Supreme Commander of all the Armed Forces of the Republic,

shall exercise all the Executive and Legislative powers of the Republic including the power to grant pardon,

shall have the power to appoint a Prime Minister and such other Ministers as he considers necessary,

shall have the power to levy taxes and expend monies,
shall have the power to summon and adjourn the Constituent Assembly, and
do all other things that may be necessary to give to the people of Bangladesh and orderly and just Government.

We the elected representatives of the people of Bangladesh do further resolve that in the event of there being no President or the President being unable to enter upon his office or being unable to exercise his powers due to any reason whatsoever, the Vice-President shall have and exercise all the powers, duties and responsibilities herein conferred on the President,

We further resolve that we undertake to observe and give effect to all duties and obligations that devolve upon us as a member of the family of nations and to abide by the Charter of the United Nations.

We further resolve that this Proclamation of Independence shall be deemed to have come into effect from 26th day of March, 1971.

We further resolve that in order to give effect to this instrument we appoint Prof. Yusuf Ali our duly Constituted potentiary and to give to the President and the Vice-President oaths of office.

PROF. YUSUF ALI
Duly Constituted Potentiary
By and under the authority
of the Constituent Assembly
of Bangladesh.

উদ্দেশ্য ও কারণ সম্বলিত বিবৃতি

সংবিধানের বিভিন্ন বিধানে প্রয়োজনীয় সংশোধন আনয়নের লক্ষ্যে মন্ত্রিসভা কর্তৃক চূড়ান্তভাবে অনুমোদিত সংবিধান (পঞ্চদশ সংশোধন) আইন, ২০১১ এর বিলে কতিপয় অন্যান্য বিষয়ের সাথে মূলতঃ ১৯৭২ সালের সংবিধানের মৌলিক বৈশিষ্ট্য, জনগণের মৌলিক অধিকার, রাষ্ট্রপরিচালনার নীতি ইত্যাদি সংক্রান্ত বিধান পুনর্বহালের প্রস্তাব রয়েছে।

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গণতান্ত্রিক ব্যবস্থাকে সুদৃঢ় করার মাধ্যমে জনগণের ক্ষমতায়ন নিশ্চিত এবং গণতন্ত্রকে সুসংহত করার লক্ষ্যে অসাংবিধানিক পন্থায় ক্ষমতা গ্রহণ এবং উহার অপব্যবহারক্রমে দেশে আইনের শাসন ও জনগণের অধিকার পরাহত করার প্রচেষ্টা বন্ধের লক্ষ্যে এধরনের পদক্ষেপকে অপরাধগণ্যে উহার সাথে সংশ্লিষ্ট ব্যক্তি, উস্কানীদাতা ও সহযোগীদেরকে শাস্তি প্রদানের বিধান বিলে প্রস্তাব করা হয়েছে। নির্বাচনে জনগণের রায় প্রতিফলিত হওয়ার লক্ষ্যকে সামনে রেখে নির্বাচন কমিশনকে শক্তিশালী করার প্রস্তাব করা হয়েছে।

সংবিধান সংশোধন সম্পর্কিত বিবেচ্য বিলটি আইনে পরিণত হলে উপরি-বর্ণিত উদ্দেশ্যসমূহের সফল বাস্তবায়ন, জনগণের রাজনৈতিক ও মৌলিক অধিকার প্রতিষ্ঠা এবং সংরক্ষণে মাইলফলক হিসাবে কাজ করবে। ফলশ্রুতিতে সুশাসন প্রতিষ্ঠার মাধ্যমে জনগণ তাদের কাঙ্ক্ষিত কল্যাণকামী রাষ্ট্রের নাগরিক সুবিধা ভোগ করবে মর্মে আশা করা যায়।

ব্যারিস্টার শফিক আহমেদ
ভারপ্রাপ্ত মন্ত্রী।

BANGLADESH PARLIAMENT

PROF. YUSUF ALI
Duly Constituted Potentially
By and under the authority
of the Constitutional Assembly
of Bangladesh

**A
BILL**

further to amend certain provisions of the Constitution of the
People's Republic of Bangladesh; and annex.

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এই বিলটি জাতীয় সংসদে উত্থাপনের জন্য সংবিধানের ৮২ অনুচ্ছেদ অনুসারে
মহামান্য রাষ্ট্রপতির সুপারিশ পাওয়া গিয়াছে।

আশফাক হামিদ
সচিব।

[BARRISTER SHAFIQUE AHMED]