

CONSTITUTION REFORM COMMISSION

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SUMMARY OF RECOMMENDATIONS OF THE CONSTITUTION REFORM COMMISSION

The Constitution Reform Commission has given utmost importance to seven main issues to establish an effective democracy, ensuring fundamental human rights and establishing accountability. They are as follows:

1. Proposal for "Equality, Human Dignity, Social Justice, Pluralism and Democracy" as the fundamental principles of the Constitution and the State reflecting the great ideals of the 1971 War of Independence and the aspirations of the people in the 2024 mass uprising
2. Establishing an institutional balance of powers
3. Curtailing the absolute power of the Prime Minister's office
4. Specific proposals for the structure of an election-time Interim Government
5. Decentralization of the Judiciary
6. Ensuring a strong local government system
7. Expansion of the scope of fundamental rights, and their constitutional protection and enforceability.

PREAMBLE

The Commission recommends the following Preamble for the Constitution:

We, the people of Bangladesh, in continuation of our long and historic struggle for the liberation of the people of this land, having gained independence through a people's war and having fought unitedly against dictatorship and fascism for establishing democracy;

By recalling with deepest respect the sacrifice of all martyrs, pledging the establishment in our State and society the high ideals of equality, human dignity and social justice that inspired our people in the war of independence in 1971 and the high ideals of democracy and non-discrimination that united us against the fascist regime in 2024;

In exercise of the sovereign rights of the people, adopting and enacting this Constitution for the people of Bangladesh by declaring the ideals of equality, human dignity, social justice, pluralism and democracy as the fundamental principles of this Constitution, which embodies the highest aspirations of the people, shall ensure inclusive and collective national development and shall protect the rights of the present and the future generations;

Solemnly declare that this Constitution shall unite all citizens in the spirit of mutual rights, responsibilities and accountability, guarantee the representation of the people in the governance of the Republic at all times, foster international peace and cooperation and uphold the sovereignty of Bangladesh;

With people's consent, do hereby give to ourselves this Constitution as the Constitution of the People's Republic of Bangladesh.

REPUBLIC

1. The Commission recommends that the words 'প্রজাতন্ত্র' and 'গণপ্রজাতন্ত্রী বাংলাদেশ', as used in the Bangla text of the Constitution, be replaced by the words 'নাগরিকতন্ত্র' and 'জনগণতন্ত্রী বাংলাদেশ' as and where applicable. However, the words "Republic" and "People's Republic of Bangladesh" shall be retained in the English version.
2. Language: The state language of the Republic shall be 'Bangla'. All languages spoken as a mother tongue in Bangladesh shall be recognized by the Constitution as the languages of the country.
3. Citizenship: The Commission recommends the deletion of the provision that 'the people of Bangladesh shall be known as Bangalees as a nation'. It is recommended that the existing Article 6(2) be amended and replaced by the following: 'The citizens of Bangladesh shall be known as "Bangladeshis" '.
4. Offences concerning the Constitution and limitation on amendments of the Constitution: The Commission recommends the deletion of Articles 7A and 7B of the Constitution.
5. Fundamental Principles of the Constitution
 - 5.1 The Commission recommends that 'equality', 'human dignity', 'social justice', 'pluralism' and 'democracy' be included as fundamental principles of the Constitution.
 - 5.2 It is essential to include a provision in the Constitution that captures the pluralistic character of the society of Bangladesh. Therefore, the Commission recommends the inclusion of the following provision – 'Bangladesh is a pluralistic, multi-ethnic, multi-religious, multi-lingual and multi-cultural country where the coexistence and dignity of all communities shall be ensured.'

Fundamental Principle of State Policy:

The Commission recommends the deletion of secularism, socialism and nationalism as fundamental principles of the Constitution and the fundamental principles of State Policy, and accordingly recommends the deletion of Articles 8, 9, 10 and 12 of the Constitution.

FUNDAMENTAL RIGHTS AND FREEDOMS

1. The Commission has reviewed the articles related to rights in the current Constitution and has made several recommendations. It is recommended that a single charter, entitled 'Fundamental Rights and Freedoms', be set out in the Constitution by combining the rights in Parts II and III of the existing Constitution and that all of the rights be judicially enforceable. This will remove the existing disparity between economic, social, cultural rights on the one hand and civil and political rights on the other.
2. The inclusion of new rights has been suggested, including but not limited to the rights to food, education, medical care, housing, access to the Internet, access to information, voting and participation in the governance of the state, protection of privacy, consumer protection, development and science and the rights of children and the future generations.
3. The Commission has suggested that some existing articles be reformed, such as expanding the limited list of prohibitions on discrimination, ensuring protection from extrajudicial killings and disappearances to protect the right to life, including the right to bail and abolishing the provisions related to preventive detention.
4. Instead of imposing separate limits for each fundamental right, it has been proposed that a general limitation clause be set out and a balancing and proportionality test be included in imposing limits, which will reduce the risk of rights being curtailed by the State.
5. It has been recommended that the rights (education, health, food, housing, etc.) that require significant resources and time to implement should be implemented on the basis of availability of resources, with a commitment for progressive realization. This approach will enhance government's accountability and ensure implementation of the rights in line with the availability of resources.

LEGISLATURE

The Commission recommends the establishment of a bicameral legislature, comprising a lower house (the National Assembly) and an upper house (the Senate). The terms of both houses shall be 4 (four) years.

Lower House

1. The Lower House shall consist of members directly elected by majority vote. The Lower House shall consist of 400 (four hundred) seats. 300 (three hundred) members shall be directly elected from single territorial constituencies. Another 100 women members shall

be elected in 100 (one hundred) designated constituencies from all districts of the country through direct election from among only women candidates.

2. Political parties shall nominate candidates from among the youth in at least 10% of the total seats in the Lower House.
3. The minimum age for contesting parliamentary elections shall be reduced to 21 years.
4. There shall be 2 (two) Deputy Speakers, one of whom shall be nominated by the opposition party.
5. A member of Parliament shall not hold more than one of the following offices at the same time: (a) Prime Minister, (b) Leader of the House, and (c) Head of a political party.
6. Except for votes on Money Bills, members of the Lower House shall have the liberty to vote against the political party that nominated them.
7. The Chairpersons of the Standing Committees of the legislature shall be nominated from among the opposition members.

Upper House

1. The Upper House shall consist of a total of 105 (one hundred and five) members, of whom 100 members shall be elected in proportion to the total number of votes cast in the National Assembly elections. Political parties may nominate a maximum of 100 (one hundred) candidates for the election to the Upper House on the basis of Proportional Representation (PR) system. Out of these 100 (one hundred) candidates, at least 5 shall represent socially and economically backward communities in the manner prescribed by law. The President shall nominate candidates from among the citizens (who are not members of the legislature or of any political party) to fill the remaining 5 seats.
2. To be eligible for representation in the Upper House on the basis of Proportional Representation (PR) system, a political party must secure at least 1% of the votes cast in the National Assembly elections.
3. The Speaker of the Upper House shall be elected from among the members of the Upper House on the basis of a simple majority.
4. There shall be a Deputy Speaker of the Upper House who shall be elected from amongst the members of the Upper House except those representing the ruling party.

Amendments to the Constitution

Any amendment to the Constitution shall require the approval of a two-thirds majority of both Houses. If the proposed amendment is passed by both Houses, it shall be submitted to a referendum. The result of the referendum shall be determined by a simple majority.

International Treaties

Any international treaty with implications for the national interest or the state security shall be ratified by a majority vote of both Houses of the Legislature.

Impeachment

The President may be impeached for treason, grave misconduct, or violation of the Constitution. After the Lower House passes the impeachment motion, it shall proceed to the Upper House, where the impeachment process shall be completed following a hearing.

EXECUTIVE

1. The Commission recommends that the member who has the support of the majority of the members in the lower house of the Parliament shall form the government. The executive authority of the republic shall be exercised by the cabinet headed by the Prime Minister.
2. The commission is recommending certain specific responsibilities for the President. In all matters other than the specific functions or matters specified in the Constitution, the President shall act on the advice of the Prime Minister.
3. The Commission recommends the formation of a National Constitutional Council to ensure transparency and accountability in the State affairs and checks and balances amongst the State organs and institutions.

National Constitutional Council

1. The National Constitutional Council (“NCC”) shall be a national institution consisting of representatives from each organ of the State. The Members of NCC shall be: i. the President; ii. the Prime Minister; iii. the Leader of the Opposition; iv. the Speaker of the Lower House; v. the Speaker of the Upper House; vi. the Chief Justice of Bangladesh; vii. Opposition Party’s nominated Deputy Speaker of the Lower House; viii. Opposition Party’s nominated Deputy Speaker of the Upper House; and ix. one (1) member elected by a majority vote from amongst all the members of both Houses of Parliament, excluding the members of both Houses of the political parties represented by the Prime Minister and the Leader of the Opposition.

The voting in respect of (ix) above, shall be held within 7 (seven) working days from the date of formation of Parliament. For coalition government, members other than the political party represented by the Prime Minister, shall be eligible to vote.

2. Even if the Parliament is dissolved, the existing NCC members will remain in office until the chief advisor of the interim government is sworn in. The Members of NCC when Parliament is Dissolved shall be: i. the President; ii. the Chief Advisor; iii. the Chief Justice of Bangladesh; and iv. two members of the Advisory Council nominated by the Chief Advisor.
3. NCC shall recommend the names of the following persons to the President for appointment: i. Chief and other commissioners of the Election Commission; ii. Chief and other commissioners of the Public Service Commission; iii. Chief and other commissioners of the Anti-Corruption Commission; iv. Chief and other commissioners of the Human Right Commission; v. Chief and other commissioners of the Local Government Commission; vi. the Attorney General; vii. the Chiefs of Staffs of the Defence Services; and viii. appointments to any other offices as may be prescribed by law.

President

1. Term of office of the President shall be 4 (four) years. The President shall not serve more than two times.
2. The President shall be elected by a majority vote of the Electoral College. The Electoral College shall be composed of the following: i. one vote for each member of both the houses of Parliament; ii. one vote collectively for each 'District Coordination Council' (Example: 64 votes if there are 64 'District Coordination Councils'); and iii. one vote collectively for each 'City Corporation Coordination Council'.
3. The President may be impeached for treason, grave misconduct, or violation of the Constitution. The impeachment process will commence in the lower house.

Prime Minister

1. The Prime Minister will be nominated with the support of a majority of members of the lower house of the Parliament.
2. If the Prime Minister voluntarily resigns before the expiration of the term of the Parliament or loses a vote of confidence or for any other reason advises the President to dissolve the Parliament, then the President shall dissolve both Houses of the Parliament together only if it is clear to the President that no other member of the Lower House will receive majority support to form a government.
3. A person can serve as Prime Minister for a maximum of two times. This provision shall apply equally to him whether he holds the office for two consecutive terms or in any other manner. While serving as a Prime Minister, he cannot hold the position of the head of any political party and the leader of the parliament.

Interim Government

1. The Commission recommends the appointment of an election-time interim government after the end of the term of the Parliament or, if the Parliament is dissolved, until the next elected government is sworn in.
2. The head of the interim government shall be called the 'Chief Advisor'. The decision to appoint the Chief Advisor shall have to be finalized 15 (fifteen) days before the end of the term of Parliament or, if the Parliament is dissolved, within 15 days thereafter. The Chief Advisor shall discharge his responsibilities through an Advisory Council consisting of a maximum of 15 (fifteen) members.
3. The term of the interim government will be a maximum of 90 (ninety) days. If elections are held earlier, the term of the interim government will end as soon as the Prime Minister of the elected government is sworn in.
4. **Chief Advisor**

The Commission recommends that a person qualified to be a member of Parliament shall be appointed as the Chief Advisor of the Interim Government in the following manner:

- 4.1 An acceptable person from among the citizens other than the members of the NCC will be appointed as the Chief Advisor by the decision of at least 7 (seven) members out of the 9 (nine) members of the NCC.
- 4.2 If it is not possible to make a decision as per paragraph 4.1 above, a person from among all retired Chief Justices and retired judges of the Appellate Division shall be appointed as the Chief Advisor by the decision of at least 6 (six) members out of the 9 (nine) members of the NCC.
- 4.3 If it is not possible to make a decision as per paragraph 4.2 above, the President shall assume additional responsibility as the Chief Advisor by unanimous decision of all members of the NCC.
- 4.4 If the NCC is unable to reach a unanimous decision as per paragraph 4.3 above, the most recently retired Chief Justice of Bangladesh shall be the Chief Advisor.
- 4.5 If the last retired Chief Justice is not available or refuses to be the Chief Advisor as per paragraph 4.4 above, the Chief Justice who immediately preceded him/her shall be the Chief Advisor. Similarly, if he/she is not available or refuses to be the Chief Advisor, the next retired Chief Justice who is available in succession shall be the Chief Advisor.
- 4.6 If no retired Chief Justices are available or refuse to be the Chief Advisor as per paragraph 4.5 above, the last retired Judge of the Appellate Division shall be the Chief Advisor.

- 4.7 If the last retired judge of the Appellate Division is not available or refuses to be the Chief Advisor as per paragraph 4.6 above, then the judge of the Appellate Division who retired immediately before him/her shall be the Chief Advisor. Similarly, if he/she is not available or refuses to be the Chief Advisor, then the next retired judge of the Appellate Division who is available in succession shall be the Chief Advisor.

JUDICIARY

Supreme Court

1. The Commission proposes decentralising the High Court Division by establishing permanent seats of the High Court in all divisions of the country. The Appellate Division of the Supreme Court shall remain in the capital.
2. The Commission recommends the establishment of an independent Judicial Appointments Commission (JAC) to appoint Supreme Court judges. The JAC shall be composed of:
 - i. The Chief Justice (ex-officio Chair)
 - ii. Two next senior judges of the Appellate Division (ex-officio members)
 - iii. Two most senior judges of the High Court Division (ex-officio members)
 - iv. Attorney General
 - v. One citizen (to be nominated by the Upper House of the Parliament).
3. The Commission recommends that the eligibility criteria for Supreme Court judges must include honesty and integrity in addition to knowledge and skills.
4. The Commission recommends that a provision be inserted in the Constitution to institutionalise the appointment of the senior-most judge based on tenure from amongst the Appellate Division judges as the Chief Justice.
5. The Commission recommends the continuance of the Supreme Judicial Council. It is proposed that in addition to the President, the National Constitutional Council will have the authority to refer matters to the Supreme Judicial Council for inquiry and investigation.
6. The Commission recommends that the Judiciary be granted full financial autonomy.

‘Subordinate Courts’

7. The Commission proposes to substitute the expression “subordinate courts” with “local courts”.
8. The Commission recommends that the appointment, posting, promotion, leave, and discipline of judicial officers of local courts shall vest in the Supreme Court. To this end, the Commission recommends the establishment of a Judicial Secretariat under the authority of the Supreme Court. Financed by the consolidated fund, the Secretariat shall have full

control over all administrative functions, budget and human resource management of the Supreme Court and the local courts.

LOCAL GOVERNMENT

1. The Commission recommends that all Local Government Institutions ("LGIs") shall have full functional autonomy in the financial management and execution of all functions prescribed by law. Local Government Institutions (LGIs) shall have full financial control and implementation authority over all development works at the local level, unless they are part of a national plan.
2. The Commission recommends that all government officials and employees who are directly engaged in the work of LGI will be subordinate to the LGI's public representatives. All government departments involved in the implementation of development projects under the jurisdiction of LGI will work under the guidance of the LGI's public representatives.
3. LGI will be able to raise funds locally. If the estimated funds are likely to be less than the LGI budget, the budget shall be sent to the Committee on Local Government of the Upper House of the Parliament. If the budget is approved by the Committee on Local Government of the Upper House of the Parliament, the Committee shall direct the Ministry concerned to allocate the deficit mentioned in the budget within 15 (fifteen) working days.
4. The Commission recommends the establishment of a 'District Coordination Council' in each District, which will act as a coordinating and joint working body for all LGIs within that District. Its members are shall be: i. Elected Chairman and two vice-chairmen from each Upozilla Parishad; ii. Mayor and Two Deputy Mayors from each Paurashava; and iii. Elected Chairman from each Union Parishad. The City Corporations will have their own Coordination Councils.
5. The Commission recommends that all elections of LGIs shall be conducted by the the Election Commission.
6. The Commission recommends the creation of a Local Government Commission consisting of one Chief Local Government Commissioner and 4 Commissioners.

PERMANENT ATTORNEY SERVICES

The commission recommends the establishment of a permanent attorney service under the Constitution.

CONSTITUTIONAL COMMISSIONS

It is recommended that a new part in the Constitution be introduced on five constitutional commissions, with one chapter for each commission. These commissions are: (i) the Human Rights Commission; (ii) the Election Commission; (iii) the Public Service Commission; (iv); the Local Government Commission; and (v) the Anti-Corruption Commission.

It is recommended that the composition, appointment, tenure and removal process of the commissioners of all constitutional commissions be uniform. Each will have a tenure of four (4) years.

MISCELLANEOUS

1. The Commission recommends the deletion of Article 150(2) of the Constitution, and the removal of the 5th, 6th and 7th Schedules from the Constitution.
2. Emergency Provisions

The Commission recommends that the President may declare a state of emergency only on the basis of a decision of the NCC. The Commission is of the view that the fundamental rights of citizens cannot be abrogated or suspended and that the right of access to the courts cannot be curtailed or suspended during a state of emergency. Therefore, the Commission recommends the deletion of Articles 141B and 141C.