

Constitution of the People's Republic of Bangladesh

PREAMBLE

We, the people of Bangladesh, having proclaimed our Independence on the 26th day of March, 1971 and through 2[a historic war for national independence], established the independent, sovereign People's Republic of Bangladesh;

3 [Pledging that the high ideals of absolute trust and faith in the Almighty Allah, nationalism, democracy and socialism meaning economic and social justice, which inspired our heroic people to dedicate themselves to, and our brave martyrs to sacrifice their lives in the war for national independence, shall be fundamental principles of the Constitution;]

Further pledging that it shall be a fundamental aim of the State to realise through the democratic process to socialist society, free from exploitation—a society in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social, will be secured for all citizens;

Affirming that it is our sacred duty to safeguard, protect and defend this Constitution and to maintain its supremacy as the embodiment of the will of the people of Bangladesh so that we may prosper in freedom and may make our full contribution towards international peace and co-operation in keeping with the progressive aspirations of mankind;

In our Constituent Assembly, this eighteenth day of Kartick, 1379 B.S corresponding to the fourth day of November, 1972 A.D., do hereby adopt, enact and give to ourselves this Constitution.

PART I THE REPUBLIC¹. The Republic.

Bangladesh is a unitary, independent, sovereign Republic to be known as the People's Republic of Bangladesh.

2. The territory of the Republic.

The territory of the Republic shall comprise—

The territories which immediately before the proclamation of independence on the 26th day of March, 1971 constituted East Pakistan ⁴[and the territories referred to as included territories in the Constitution (Third Amendment) Act, 1974, but excluding the territories referred to as excluded territories in that Act; and]

such other territories as may become included in Bangladesh.

5 [2A. The state religion.

The state religion of the Republic is Islam, but other religions may be practiced in peace and harmony in the Republic.]

3. The state language.

The state language of the Republic is 6[Bangla]

4. National anthem, flag and emblem.

(1) The national anthem of the Republic is the first ten lines of "Amar Sonar Bangla".

(2) The national flag of the Republic shall consist of a circle, coloured red throughout its area, resting on a green background.

(3) The national emblem of the Republic is the national flower Shapla (nymphoea-nouchali) resting on water, having on each side and ear of paddy and being surmounted by three connected leaves of jute with two stars on each side of the leaves.

(4) Subject to the foregoing clauses, provisions relating to the national anthem, flag and emblem shall be made by law.

4A. Portrait.

(1) Portrait of the President shall be preserved and displayed at the offices of the President, Prime Minister and Speaker, and all embassies and missions of Bangladesh abroad.

(2) In addition to clause (1), Portrait, of only the Prime Minister, shall be preserved and displayed at the offices of the President and the Speaker, and in head and branch offices of all government and semi-government offices, autonomous bodies, statutory public authorities, government educational institutions, embassies and missions of Bangladesh abroad.

5. The capital.

(1) The capital of the Republic is 7[Dhaka].

(2.) The boundaries of the capital shall be determined by law.

8[6. Citizenship.

(1) The citizenship of Bangladesh shall be determined and regulated by law.

(2) The citizens of Bangladesh shall be known as Bangladeshis.]

7. Supremacy of the Constitution.

(1) All powers in the Republic belong to the people, and their exercise on behalf of the people shall be effected only under, and by the authority of,

this Constitution.

(2) This Constitution is, as the solemn expression of the will of the people, the supreme law of the Republic, and if any other law is inconsistent with this Constitution and other law shall, to the extent of the inconsistency, be void.

PART II FUNDAMENTAL PRINCIPLES OF STATE POLICY

8. Fundamental principles.

9[(1) The principles of absolute trust and faith in the Almighty Allah, nationalism, democracy and socialism meaning economic and social justice, together with the principles derived from them as set out in this Part, shall constitute the fundamental principles of state policy.

(1A). Absolute trust and faith in the Almighty Allah shall be the basis of all actions.]

(2) The principles set out in this Part shall be fundamental to the governance of Bangladesh, shall be applied by the State in the making of laws, shall be a guide to the interpretation of the Constitution and of the other laws of Bangladesh, and shall form the basis of the work of the State and of its citizens, but shall not be judicially enforceable.

10[9. Promotion of local Government institutions.

The State shall encourage local Government institutions composed of representatives of the areas concerned and in such institutions special representation shall be given, as far as possible, to peasants, workers and women.

10. Participation of women in national life.

Steps shall be taken to ensure participation of women in all spheres of national life.] Participation of women in national life.]

11. Democracy and human rights.

The Republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed 11* * * 12[, and in which effective participation by the people through their elected representatives in administration at all levels shall be ensured].

12. [Omitted]

13. Principles of ownership.

The people shall own or control the instruments and means of production and distribution, and with this end in view ownership shall assume the following

forms-

state ownership, that is ownership by the State on behalf of the people through the creation of an efficient and dynamic nationalised public sector embracing the key sectors of the economy;

co-operative ownership, that is ownership by co-operatives on behalf of their members within such limits as may be prescribed by law; and

private ownership, that is ownership by individuals within such limits as may be prescribed by law.

14. Emancipation of peasants and workers.

It shall be a fundamental responsibility of the State to emancipate the toiling masses the peasants and workers and backward sections of the people from all forms and exploitation.

15. Provision of basic necessities.

It shall be a fundamental responsibility of the State to attain, through planned economic growth, a constant increase of productive forces and a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens-

the provision of the basic necessities of life, including food, clothing, shelter, education and medical care;

the right to work, that is the right to guaranteed employment at a reasonable wage having regard to the quantity and quality of work;

the right to reasonable rest, recreation and leisure; and

the right to social security, that is to say to public assistance in cases of undeserved want arising from unemployment, illness or disablement, or suffered by widows or orphans or in old age, or in other such cases.

16. Rural development and agricultural revolution.

The State shall adopt effective measures to bring about a radical transformation in the rural areas through the promotion of a agricultural revolution, the provision of rural electrification, the development of cottage and other industries, and the improvement of education, communications and public health, in those areas, so as progressively to remove the disparity in the standards of living between the urban and the rural areas.

17. Free and compulsory education.

The State shall adopt effective measures for the purpose of -
establishing a uniform, mass-oriented and universal system of education and extending free and compulsory education to all children to such stage as may be determined by law ;

relating education to the needs of society and producing properly trained and motivated citizens to serve those needs;

removing illiteracy within such time as may be determined by law.

18. Public health and morality.

(1) The State shall regard the raising of the level of nutrition and the improvement of public health as moving its primary duties, and in particular shall adopt effective measures to prevent the consumption, except for medical purposes or for such other purposes as may be prescribed by law, of alcoholic and other intoxicating drinks and drugs which are injurious to health.

(2) The State shall adopt effective measures to prevent prostitution and gambling.

19. Equality of opportunity.

(1) The State shall endeavour to ensure equality of opportunity to all citizens.

(2) The State shall adopt effective measures to remove social and economic inequality between man and man and to ensure the equitable distribution of wealth among citizens, and of opportunities in order to attain a uniform level of economic development throughout the Republic.

20. Work as a right and duty.

(1) Work is a right, a duty and a matter of honour for every citizen who is capable of working, and everyone shall be paid for his work on the basis of the principle "from each according to his abilities to each according to his work".

(2) The State shall endeavour to create conditions in which, as a general principle, persons shall not be able to enjoy unearned incomes, and in which human labour in every form, intellectual and physical, shall become a fuller expression of creative endeavour and of the human personality.

21. Duties of citizens and of public servants.

(1) It is the duty of every citizen to observe the Constitution and the laws, to maintain discipline, to perform public duties and to protect public property.

(2) Every person in the service of the Republic has a duty to strive at all times to serve the people.

22. Separation of Judiciary from the executive.

The State shall ensure the separation of the judiciary from the executive organs of the State. Separation of Judiciary from the executive.

23. National Culture.

The State shall adopt measures to conserve the cultural traditions and

heritage of the people, and so to foster and improve the national language, literature and the arts that all sections of the people are afforded the opportunity to contribute towards and to participate in the enrichment of the national culture.

24. National monuments, etc.

The State shall adopt measures for the protection against disfigurement, damage or removal of all monuments, objects or places of special artistic or historic importance or interest.

25. Promotion of international peace, security and solidarity.

14[(1)] The State shall base its international relations on the principles of respect for national sovereignty and equality, non-interference in the internal affairs of other countries, peaceful settlement of international disputes, and respect for international law and the principles enunciated in the United Nations Charter, and on the basis of those principle shall-
Strive for the renunciation of the use of force in international relations and for general and complete disarmament;
uphold the right of every people freely to determine and build up its own social, economic and political system by ways and means of its own free choice; and
support oppressed peoples throughout the world waging a just struggle against imperialism, colonialism or racialism.

15[(2) The State shall endeavour to consolidate, preserve and strengthen fraternal relations among Muslim countries based on Islamic solidarity.]

PART III FUNDAMENTAL RIGHTS

26. Laws inconsistent with fundamental rights to be void.

(1) All existing law inconsistent with the provisions of this Part shall, to the extent of such inconsistency, become void on the commencement of this Constitution.

(2) The State shall not make any law inconsistent with any provisions of this Part, and any law so made shall, to the extent of such inconsistency, be void.

16[(3) Nothing in this article shall apply to any amendment of this Constitution made under article 142].

27. Equality before law.

All citizens are equal before law and are entitled to equal protection of law.

28. Discrimination on grounds of religion, etc.

(1) The State shall not discriminate against any citizen on grounds only of religion, race caste, sex or place of birth.

(2) Women shall have equal rights with men in all spheres of the State and of public life.

(3) No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution.

(4) Nothing in this article shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens.

29. Equality of opportunity in public employment.

(1) There shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic.

(2) No citizen shall, on grounds only of religion, race, caste, sex or place of birth, be ineligible for, or discriminated against in respect of, any employment or office in the service of the Republic.

(3) Nothing in this article shall prevent the State from -

making special provision in favour of any backward section of citizens for the purpose of securing their adequate representation in the service of the Republic;

giving effect to any law which makes provision for reserving appointments relating to any religious or denominational institution to persons of that religion or denomination;

reserving for members of one sex any class of employment or office on the ground that it is considered by its nature to be unsuited to members of the opposite sex.

17[30. Prohibition of foreign titles, etc.

No citizen shall, without the prior approval of the President, accept any title, honour, award or decoration from any foreign state.]

31. Right to protection of law.

To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law.

32. Protection of right to life and personal liberty.

No person shall be deprived of life or personal liberty save in accordance with law.

18[33. Safeguards as to arrest and detention.

(1) No person who is arrested shall be detained in custody without being informed, as soon as may be of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply to any person-

who for the time being is an enemy alien; or

who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a period exceeding six months unless an Advisory Board consisting of three persons, of whom two shall be persons who are, or have been, or are qualified to be appointed as, Judges of the Supreme Court and the other shall be a person who is a senior officer in the service of the Republic, has, after affording him an opportunity of being heard in person, reported before the expiration of the said period of six months that there is, in its opinion, sufficient cause for such detention.

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order.

(6) Parliament may by law prescribe the procedure to be followed by an Advisory Board in an inquiry under clause (4)].

34. Prohibition of forced labour.

(1) All forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall apply to compulsory labour.

by persons undergoing lawful punishment for a criminal offence; or required by any law for public purpose.

35. Protection in respect of trial and punishment.

(1) No person shall be convicted to any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than, or different from that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) Every person accused of a criminal offence shall have the right to a speedy and public trial by an independent and impartial court or tribunal established by law.

(4) No person accused of any offence shall be compelled to be a witness against himself.

(5) No person shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment.

(6) Nothing in clause (3) or clause (5) shall affect the operation of any existing law which prescribes any punishment or procedure for trial.

36. Freedom of movement.

Subject to any reasonable restrictions imposed by law in the public interest, every citizen shall have the right to move freely throughout Bangladesh, to reside and settle in any place therein and to leave and re-enter Bangladesh.

37. Freedom of assembly.

Every citizen shall have the right to assemble and to participate in public meetings and processions peacefully and without arms, subject to any reasonable restrictions imposed by law in the interests of public order and health.

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; 19* * * * *

39. Freedom of thought and conscience, and of speech.

(1) Freedom of thought and conscience is guaranteed. Freedom of thought and conscience, and of speech.

(2) Subject to any reasonable restrictions imposed by law in the interests of the security of the State, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or

incitement to an offence-

the right of every citizen of freedom of speech and expression; and freedom of the press, are guaranteed.

40. Freedom of profession or occupation.

Subject to any restrictions imposed by law, every citizen possessing such qualifications, if any, as may be prescribed by law in relation to his profession, occupation, trade or business shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business.

41. Freedom of religion.

(1) Subject to law, public order and morality- every citizen has the right to profess, practice or propagate any religion; every religious community or denomination has the right to establish, maintain and manage its religious institutions.

(2) No person attending any educational institution shall be required to receive religious instruction, or to take part in or to attend any religious ceremony or worship, if that instruction, ceremony or worship relates to a religion other than his own.

42. Rights to property.

(1) Subject to any restrictions imposed by law, every citizen shall have the right to acquire, hold, transfer or otherwise dispose of property, and no property shall be compulsorily acquired, nationalised or requisitioned save by authority of law.

20[(2) A law made under clause (1) shall provide for the acquisition, nationalisation or requisition with compensation and shall either 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 in respect of such compensation is not adequate.

(3) Nothing in this article shall affect the operation of any law made before the commencement of the Proclamations (Amendment) Order, 1977 (Proclamations Order No. I of 1977), in so far as it relates to the acquisition, nationalisation or acquisition of any property without compensation.]

43. Protection of home and correspondence.

Every citizen shall have the right, subject to any reasonable restrictions imposed by law in the interests of the security of the State, public order, public morality or public health-

to be secured in his home against entry, search and seizure; and to the privacy of his correspondence and other means of communication.

21[44. Enforcement of fundamental rights.

(1) The right to move the 22[High Court Division] in accordance with 23[clause (I)] of article 102 for the enforcement of the rights conferred by this Part of guaranteed.

(2) Without prejudice to the powers of the 22[High Court Division] under article 102, Parliament may be law empower any other court, within the local limits of its jurisdiction, to exercise all or any of those powers.]

45. Modification of rights in respect of disciplinary.

Nothing in this Part shall apply to any provision of a disciplinary law relating to members of a disciplined force, being a provision limited to the purpose of ensuring the proper discharge of their duties or the maintenance of discipline in that force.

46. Power to provide indemnity.

Notwithstanding anything in the foregoing provisions of this Part, Parliament may be law make provision for indemnifying any person in the service of the Republic or any other person in respect of any act done by him in connection with the national liberation struggle or the maintenance or restoration of other in any area in Bangladesh or validate any sentence passed, punishment inflicted, forfeiture ordered, or other act done in any such area.

47. Saving for certain laws.

(1) No law providing for any of the following matters shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridge, any of the rights guaranteed by this Part-

the compulsory acquisition, nationalisation or requisition of any property, or the control or management thereof whether temporarily or permanently; the compulsory amalgamation of bodies carrying on commercial or other undertakings;

the extinction, modification, restriction or regulation of rights of directors, managers, agents and officers of any such bodies, or of the voting rights of persons owning shares or stock (in whatever form) therein;

the extinction, modification, restriction or regulation of rights of search for or win minerals or mineral oil;

the carrying on by the Government or by a corporation owned, controlled or managed by the Government, of any trade, business, industry or service to the exclusion, complete or partial, or other persons; or

the extinction, modification, restriction or regulation of any right to property, any right in respect of a profession, occupation, trade or business or the rights of employers or employees in any statutory public authority or

in any commercial or industrial undertaking;
if Parliament in such law (including, in the case of existing law, by amendment) expressly declares that such provision is made to give effect to any of the fundamental principles of state policy set out in Part II of this Constitution.

(2) Notwithstanding anything contained in this Constitution the laws specified in the First Schedule (including any amendment of any such law) shall continue to have full force and effect, and no provision of any such law, nor anything done or omitted to be done under the authority of such law, shall be deemed void or unlawful on the ground of inconsistency with, or repugnance to, any provision of this Constitution; 24[Provided that nothing in this article shall prevent amendment, modification or repeal of any such law.]

25[(3) Notwithstanding anything contained in this Constitution, no law nor any provision thereof providing for detention, prosecution or punishment of any person, who is a member of any armed or defence or auxiliary forces or who is a prisoner of war, for genocide, crimes against humanity or war crimes and other crimes under international law shall be deemed void or unlawful, or ever to have become void or unlawful, on the ground that such law or provision of any such law is inconsistent with, or repugnant to any of the provisions of this Constitution.]

26[47A. In applicability of certain articles.

(1) The rights guaranteed under article 31. clauses (1) and (3) of article 35 and article 44 shall not apply to any person to whom a law specified in clause (3) of article 47 applies.

(2) Notwithstanding anything contained in this Constitution, no person to whom a law specified in clause (3) of article 47 applies shall have the right to move the Supreme Court for any of the remedies under this Constitution.]

PART IV THE EXECUTIVE

CHAPTER I—THE PRESIDENT

48. The President.

(1) There shall be a President of Bangladesh who shall be elected by members of Parliament in accordance with law.

(2) The President shall as Head of State, take precedence over all other persons in the State, and shall exercise the powers and perform the duties conferred and imposed on him by this Constitution and by any other law.

(3) In the exercise of all his functions, save only that of appointing the Prime Minister pursuant to clause (3) of article 56 and the Chief Justice pursuant to clause (1) of article 95, the President shall act in accordance with the advice of the Prime Minister;

Provided that the question whether any, and if so what, advice has been tendered by the Prime Minister to the President shall not be enquired into in any court.

(4) A person shall not be qualified for election as President if he-

is less than thirty-five years of age; or
is not qualified for election a member of Parliament; or
has been removed from the office of President by impeachment under this Constitution.

(5) The Prime Minister shall keep the President informed on matters of domestic and foreign policy, and submit for the consideration of the Cabinet any matter which the President may request him to refer to it.

49. Prerogative of mercy.

The President shall have power to grant pardons, reprieves and respites and to remit, suspend or commute any sentence passed by any court, tribunal or other authority. Prerogative of mercy.

50. Term of office of President.

(1) Subject to the provisions of this Constitution, the President shall hold office for a term of five years from the date on which he enters upon his office;

Provided that notwithstanding the expiration of his term the President shall continue to hold office until his successor enters upon office.

(2) No person shall hold office as President for more than two terms, whether or not the terms are consecutive.

(3) The President may resign his office by writing under his hand addressed to the Speaker.

(4) The President during his term of office shall not be qualified for election as a member of Parliament, and if a member of Parliament is elected as President he shall vacate his seat in Parliament on the day on which he enters upon his office as President.

51. President's immunity.

(1) Without prejudice to the provisions of article 52, the President shall not be answerable in any court for anything done or omitted by him in the exercise or purported exercise of the functions of this office, but this clause shall not prejudice the right of any person to take proceedings against the

Government.

(2) During his term of office no criminal proceedings whatsoever shall be instituted or continued against the President in, and no process for his arrest or imprisonment shall issue from, any court.

52. Impeachment of the President.

(1) The President may be impeached on a charge of violating this Constitution or of grave misconduct, preferred by a notice of motion signed by a majority of the total number of members of the Parliament and delivered to the speaker, setting out the particulars of the charges, and the motion shall not be debated earlier than fourteen nor later than thirty days after the notice is so delivered; and the Speaker shall forthwith summon Parliament if it is not in session.

(2) The Conduct of the President may be referred by Parliament to any court, tribunal or body appointed or designated by Parliament for the investigation of a charge under this article.

(3) The President shall have the right to appear and to be represented during the consideration of the charge.

(4) If after the consideration of the charge a resolution is passed by Parliament by votes of not less than two-thirds of the total number of members declaring that the charge has been substantiated, the President shall vacate his office on the date on which the resolution is passed.

(5) Where the Speaker is exercising the functions of the President under article 54 the provisions of this article shall apply subject to the modifications that the reference to the Speaker in clause (1) shall be construed as a deference to the Deputy Speaker, and that the reference in clause (4) to the vacation by the President of his office shall be construed as a reference to the vacation by the Speaker of his office as Speaker; and on the passing of a resolution such as is referred to in clause (4) the Speaker shall cease to exercise the functions of President.

53. Removal of President of ground of incapacity.

(1) The President may be removed from office on the ground of physical or mental incapacity on a motion of which notice, signed by a majority of the total number of members of Parliament, is delivered to the Speaker, setting out particulars of the alleged incapacity. Removal of President on ground of incapacity.

(2) On receipt of the notice the Speaker shall forthwith summon Parliament if it is not in session and shall call for a resolution constituting a medical

board (hereinafter in this article called "the Board") and upon the necessary motion being made and carried shall forthwith cause a copy of the notice to be transmitted to the President together with a request signed by the Speaker that the President submit himself within a period of ten days from the date of the request to an examination by the Board.

(3) The motion for removal shall not be put to the vote earlier than fourteen nor later than thirty days after notice of the motion is delivered to the Speaker, and if it is again necessary to summon Parliament in order to enable the motion to be made within that period, the Speaker shall summon Parliament.

(4) The President shall have the right to appear and to be represented during the consideration of the motion.

(5) If the President has not submitted himself to an examination by the Board before the motion is made in Parliament, the motion may be put to the vote, and if it is passed by the votes of not less than two-thirds of the total number of members of Parliament, the President shall vacate his office on the date on which the motion is passed.

(6) If before the motion for removal is made in Parliament, the President has submitted himself to an examination by the Board, the motion shall not be put to the vote until the Board has been given an opportunity of reporting its opinion to Parliament.

(7) If after consideration by Parliament of the motion and of the report of the Board (which shall be submitted within seven days of the examination held pursuant to clause (2) and if not so submitted shall be dispensed with) the motion is passed by the votes of not less than two-thirds of the total number of members of Parliament, the President shall vacate his office on the date on which the resolution is passed.

54. Speaker to act as President during absence, etc.

If a vacancy occurs in the office of President or if the President is unable to discharge the functions of his office on account of absence, illness or any other cause of Speaker shall discharge those functions until a President is elected or until the President resumes the functions of his office, as the case may be.

CHAPTER II THE PRIME MINISTER AND THE CABINET

55. The Cabinet.

(1) There shall be a Cabinet for Bangladesh having the Prime Minister at its

head and comprising also such other Minister as the Prime Minister may from time to time designate.

(2) The executive power of the Republic shall, in accordance with this Constitution, be exercised by or on the authority of the Prime Minister.

(3) The Cabinet shall be collectively responsible to Parliament.

(4) All executive actions of the Government shall be expressed to be taken in the name of the President.

(5) The President shall by rules specify the manner in which orders and other instruments made in his name shall be attested or authenticated, and the validity of any order or instrument so attested or authenticated shall not be questioned in any court on the ground that it was not duly made or executed.

(6) The President shall make rules for the allocation and transaction of the business of the Government.

56. Minister.

(1) There shall be Prime Minister, and such other Ministers, Ministers of State and Deputy Ministers as may be determined by the Prime Minister.

(2) The appointments of the Prime Minister and other Ministers and of the Ministers of State and Deputy Ministers, shall be made by the President: Provided that not less than nine-tenths of their number shall be appointed from among members of Parliament and not more than one-tenth of their number may be chosen from among persons qualified for election as members of Parliament.

(3) The President shall appoint as Prime Minister the member of Parliament who appears to him to command the support of the majority of the members of Parliament.

(4) If occasion arises for making any appointment under clause (2) of clause (3) between a dissolution of Parliament and the next following general election of members of Parliament, the persons who were such members immediately before the dissolution shall be regarded for the purpose of this clause as counting to be such members.

57. Tenure of office of Prime Minister.

(1) The office of the Prime Minister shall be vacant –
if he resigns from office at any time by placing his resignation in the hands of the President; or
if he ceases to be a member of Parliament.

(2) If the Prime Minister ceases to retain the support of a majority of the members of Parliament, he shall either resign his office or advise the President shall, if he is satisfied that no other member of Parliament commands the support of the majority of the members of Parliament, dissolve Parliament accordingly.

(3) Nothing in this article shall disqualify the Prime Minister for holding office until his successor has entered upon office.

58. Tenure of office of other Ministers.

(1) The office of a Minister other than the Prime Minister shall become vacant—

if he resigns from office by placing his resignation in the hands of the Prime Minister for submission to the President;

if he ceases to be a member of Parliament, but this shall not be applicable to a Minister chosen under the proviso to article 56(2);

if the President, pursuant to the provisions of clause (2), so directs; or as provided in clause (4).

(2) The Prime Minister may at any time request a Minister to resign, and if such Minister fails to comply with the request, may advise the President to terminate the appointment of such Minister.

(3) Nothing in sub-clauses (a), (b), and (d) of clause (1) shall disqualify a Minister for holding office during any period in which Parliament stands dissolved.

(4) If the Prime Minister resigns from or ceases to hold office each of the other Ministers shall be deemed also to have resigned from office but shall, subject to the provisions of the Chapter, continue to hold office until his successor has entered upon office.

(5) In this article "Minister" includes Minister of State and Deputy Minister.

58A. Application of Chapter.

Application of Chapter.— Nothing in this Chapter, except the provision of article 55(4), (5) and (6), shall apply during the period in which Parliament is dissolved or stands dissolved:

Provided that, notwithstanding anything contained in Chapter IIA, where the President summons Parliament that has been dissolved to meet under article 72(4), this Chapter shall apply."]

CHAPTER IIA

NON-PARTY CARE TAKER GOVERNMENT

58B. Non-Party Care-taker Government

(1) There shall be a Non-Party Care-taker Government during the period from the date on which the Chief Adviser of such government enters upon office after Parliament is dissolved or stands dissolved by reason of expiration of its term till the date on which a new Prime Minister enters upon his office after the constitution of Parliament.

(2) The Non-Party Care-taker Government shall be collectively responsible to the President.

(3) The executive power of the Republic shall, during the period mentioned in clause (1), be exercised, subject to the provisions of article 58D(1), in accordance with this Constitution, by or on the authority of the Chief Adviser and shall be exercised by him in accordance with the advice of the Non-Party Care-taker Government.

(4) The provisions of article 55(4), (5) and (6) shall (with the necessary adaptations) apply to similar matters during the period mentioned in clause (1).

58C. Composition of the Non-Party Care-taker Government, appointment of Advisers, etc.

(1) Non-Party Care-taker Government shall consist of the Chief Adviser at its head and not more than ten other Advisers, all of whom shall be appointed by the President.

(2) The Chief Adviser and other Advisers shall be appointed within fifteen days after Parliament is dissolved or stands dissolved, and during the period between the date on which Parliament is dissolved or stands dissolved and the date on which the Chief Adviser is appointed, the Prime Minister and his cabinet who were in office immediately before Parliament was dissolved or stood dissolved shall continue to hold office as such.

(3) The President shall appoint as Chief Adviser the person who among the retired Chief Justices of Bangladesh retired last and who is qualified to be appointed as an Adviser under this article:

Provided that if such retired Chief Justice is not available or is not willing to hold the office of Chief Adviser, the President shall appoint as Chief Adviser the person who among the retired Chief Justices of Bangladesh retired next before the last retired Chief Justice.

(4) If no retired Chief Justice is available or willing to hold the office of Chief Advise, the President shall appoint as Chief Adviser the person who

among the retired Judges of the Appellate Division retired last and who is qualified to be appointed as an Adviser under this article:

Provided that if such retired Judge is not available or is not willing to hold the office of Chief Adviser, the President shall appoint as Chief Adviser the person who among the retired Judges of the Appellate Division retired next before the last such retired Judge.

(5) If no retired judge of the Appellate Division is available or willing to hold the office of Chief Adviser, the President shall, after consultation, as far as practicable, with the major political parties, appoint the Chief Adviser from among citizens of Bangladesh who are qualified to be appointed as Advisers under this article.

(6) Notwithstanding anything contained in this Chapter, if the provisions of clauses (3), (4) and (5) cannot be given effect to, the President shall assume the functions of the Chief Adviser of the Non-Party Care-taker Government in addition to his own functions under this Constitution.

(7) The President shall appoint Advisers from among the persons who are—
qualified for election as members of parliament;
not members of any political party or of any organisation associated with or affiliated to any political party;
not, and have agreed in writing not to be, candidates for the ensuing election of members of parliament;
not over seventy-two years of age.

(8) The Advisers shall be appointed by the President on the advice of the Chief Adviser.

(9) The Chief Adviser or an Adviser may resign his office by writing under his hand addressed to the President.

(10) The Chief Adviser or an Adviser shall cease to be Chief Adviser or Adviser if he is disqualified to be appointed as such under this article.

(11) The Chief Adviser shall have the status, and shall be entitled to the remuneration and privileges, of a Prime Minister and an Adviser shall have the status, and shall be entitled to the remuneration and privileges, of a Minister.

(12) The Non-Party Care-taker Government shall stand dissolved on the date on which the prime Minister enters upon his office after the constitution of new parliament.

58D. Functions of Non-Party Care-taker Government

(1) The Non-Party Care-taker Government shall discharge its functions as an interim government and shall carry on the routine functions of such government with the aid and assistance of persons in the services of the Republic; and, except in the case of necessity for the discharge of such functions its shall not make any policy decision.

(2) The Non-Party Care-taker Government shall give to the Election Commission all possible aid and assistance that may be required for holding the general election of members of parliament peacefully, fairly and impartially.

58E. Certain provisions of the Constitution to remain ineffective
Notwithstanding anything contained in articles 48(3), 141A(1) and 141C(1) of the Constitution, during the period the Non-Party Care-taker government is functioning, provisions in the constitution requiring the President to act on the advice of the Prime Minister or upon his prior counter-signature shall be ineffective."]

CHAPTER III LOCAL GOVERNMENT

59. Local Government

(1) Local Government in every administrative unit of the Republic shall be entrusted to bodies, composed of persons elected in accordance with law.

(2) Everybody such as is referred to in clause (1) shall, subject to this Constitution and any other law, perform within the appropriate administrative unit such functions as shall be prescribed by Act of Parliament, which may include functions relating to-

Administration and the work of public officers;

the maintenance of public order;

the preparation and implementation of plans relating to public services and economic development.

60. Powers of local government bodies

For the purpose of giving full effect to the provisions of article 59 Parliament shall, by law, confer powers on the local government bodies referred to in that article, including power to impose taxes for local purposes, to prepare their budgets and to maintain funds.]

CHAPTER IV-THE DEFENCE SERVICES

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 and such law shall, during the period in which there is a Non-Party Care-taker Government under article 58B, be administered by the President.

62. Recruitment, etc., of defence services

(1) Parliament shall by law provide for regulating—
the raising and maintaining of the defence services of Bangladesh and of their reserves;
the grant of commissions therein;
the appointment of Chief of Staff of the defence services, and their salaries and allowances; and
the discipline and other matters relating to those services and reserves.

(2) Until Parliament by law provides for the matters specified in clause (1) the President may, by order, provide for such of them as are not already subject to existing law.

63. War

(1) War shall not be declared and the Republic shall not participate in any war except with the assent of Parliament.

CHAPTER-V - THE ATTORNEY GENERAL 64. The Attorney-General

(1) The President shall appoint a person who is qualified to be appointed as a judge of the Supreme Court to be Attorney-General for Bangladesh.

(2) The Attorney-General shall perform such duties as may be assigned to him by the President.

(3) In the performance of his duties, the Attorney-General shall have the right of audience in all courts of Bangladesh.

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.

PART V THE LEGISLATURE

CHAPTER I-PARLIAMENT

65. Establishment of Parliament

(1) There shall be a Parliament for Bangladesh (to be known as the House of the Nation) in which subject to the provisions of this Constitution, shall be vested the legislative powers of the Republic:

Provided that nothing in this clause shall prevent Parliament from delegating to any person or authority, by Act of Parliament, power to make orders, rules, regulations, bye-laws or other instruments having legislative effect.

(2) Parliament shall consist of three hundred members to be elected in accordance with law from single territorial constituencies by direct election and, for so long as clause (3) is effective, the members provided for in that clause; the member shall be designated as Members of Parliament.

30[(3) Until the dissolution of Parliament occurring next after the expiration of the period of ten years beginning from the date of the first meeting of the

Parliament next after the Parliament in existence at the time of the commencement of the Constitution (Fourteenth Amendment) Act, 2004, there shall be reserved forty five seats exclusively for women members and they will be elected by the aforesaid members in accordance with law on the basis of procedure of proportional representation in the Parliament through single transferable vote :

Provided that nothing in this clause shall be deemed to prevent a woman from being elected to any of the seats provided for in clause (2) of this article.

(4) The seat of Parliament shall be in the capital.

66. Qualifications and disqualifications for election to Parliament

(1) A person shall subject to the provisions of clause (2), be qualified to be elected as, and to be, a member of Parliament if he is a citizen of Bangladesh and has attained the age of twenty-five years.

(2) A person shall be disqualified for election as, or for being, a member of Parliament who-

(a) is declared by a competent court to be of unsound mind;

(b) is an undercharged insolvent;

(c) acquires the citizenship of, or affirms or acknowledges allegiance to, a foreign state;

(d) has been, on conviction for a criminal offence involving moral turpitude, sentenced to imprisonment for a term of not less than two years unless a period of five years has elapsed since his release; 31 *

32 [(dd) holds any office of profit in this service of the Republic other than an office which is declared by law not to disqualify its holders; or]

(g) is disqualified for such election by or under any law.

35 [(2A) 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 36 [he is a President, 37 * Prime Minister], 38* * * Minister, Minister of State or Deputy Minister.]

(4) If any dispute arises as to whether a member of Parliament has, after his election, become subject to any of the disqualifications mentioned in clause (2) or as to whether a member of Parliament should vacate his seat pursuant to article 70, the dispute shall be referred to the Election Commission to hear and determine it and the decision of the Commission on such reference shall be final.

(5) Parliament may, by law, make such provision as it deems necessary for empowering the Election Commission to give full effect to the provisions of clause (4).

67. Vacation of seats of members

(1) A member of Parliament shall vacate his seat—

(a) if he fails, within the period of ninety days from the date of the first meeting of Parliament after his election, to make and subscribe 40* * the oath or affirmation prescribed for a member of Parliament in the Third Schedule: Provided that the Speaker may, before the expiration of that period, for good cause extend it;

(b) if he is absent from Parliament, without the leave of Parliament, for ninety consecutive sitting days;

(c) upon a dissolution of Parliament;

(d) if he has incurred a disqualification under clause (2) of article 66; or

(e) in the circumstances specified in article 70.

(2) A member of Parliament may resign his seat by writing under his hand addressed to the Speaker, and the seat shall become vacant when the writing is received by the Speaker or, if the office of Speaker is vacant or the Speaker is for any reason unable to perform his functions, by the Deputy Speaker.

68. Remuneration, etc., of members of Parliament

Members of Parliament shall be entitled to such 41 [remuneration], allowances and privileges as may be determined by Act of Parliament or, until so determined, by order made by the President.

69. Penalty for member sitting or voting before taking oath

If a person sits or votes as a member of Parliament before he makes or subscribes the oath or affirmation in accordance with this Constitution, or when he knows that he is not qualified or is disqualified for membership thereof, he shall be liable in respect of each day on which he so sits or votes to a penalty of one thousand taka to be recovered as a debt due to the Republic.

42[70. Vacation of seat on resignation, etc.

(1) 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 resigns from that party or votes in Parliament against the party. Explanation.

— If a member of Parliament—

(a) being present in Parliament abstains from voting, or

(b) absents himself from any sitting of Parliament, ignoring the direction of the party which nominated him at the election as a candidate not to do so, he shall be deemed to have voted against that party.

(2) If, at any time, any question as to the leadership of the Parliamentary party of a political party arises, the Speaker shall, within seven days of being informed of it in writing by a person claiming the leadership of the majority of the members of that party in Parliament, convince a meeting of all

members of Parliament of that party in accordance with the Rules of procedure of Parliament and determine its Parliamentary leadership by the votes of the majority through division and if, in the matter of voting in Parliament, any member does not comply with the direction of the leadership so determined, he shall be deemed to have voted against that party under clause (1) and shall vacate his seat in the Parliament.

(3) If a person, after being elected a member of Parliament as an independent candidate, joins any political party, he shall, for the purpose of this article, be deemed to have been elected as a nominee of that Party.]

71. Bar against double membership

(1) No person shall at the same time be a member of Parliament in respect of two or more constituencies.

(2) Nothing in clause (1) shall prevent a person from being at the same time a candidate for two or more constituencies, but in the event of his being elected for more than one—

(a) within thirty days after his last election the person elected shall deliver to the Chief Election Commissioner a signed declaration specifying the constituency which he wishes to represent, and the seats of the other constituencies for which he was elected shall thereupon fall vacant;

(b) if the person elected fails to comply with sub-clause (a) all the seats for which he was elected shall fall vacant;

(c) the person elected shall not make or subscribe the oath or affirmation of a member of Parliament until the foregoing provisions of this clause, so far as applicable, have been complied with.

72. Sessions of Parliament

(1) Parliament shall be summoned, prorogued and dissolved by the President by public notification and when summoning Parliament the President shall specify the time and place of the first meeting: 43[Provided that a period exceeding sixty days shall not intervene between the end of one session and the first sitting of Parliament in the next session:

Provided further that in the exercise of his functions under this clause, the President shall act in accordance with the advice of the Prime Minister tendered to him in writing.]

(2) Notwithstanding the provisions of clause (1) Parliament shall be summoned to meet within thirty days after the declaration of the results of polling at any general election of members of Parliament.

(3) Unless sooner dissolved by the President, Parliament shall stand dissolved on the expiration of the period of five years from the date of its first meeting.

Provided that at any time when the Republic is engaged in war the period may be extended by Act of Parliament by not more than one year at a time but shall not be so extended beyond six months after the termination of the war.

(4) If after a dissolution and before the holding of the next general election of members of Parliament the President is satisfied that owing to the existence of a state of war in which the Republic is engaged it is necessary to recall Parliament, the President shall summon the Parliament that has been dissolved to meet.

(5) Subject to the provisions of clause (1) the sittings of Parliament shall be held at such times and places as Parliament may, by its rules of procedure or otherwise determine.

73. President's address and messages to Parliament

(1) The President may address Parliament, and may send messages thereto.

(2) At the commencement to the first session after a general election of members of Parliament and at the commencement of the first session of each year the President shall address Parliament.

(3) Parliament shall, after the presentation of an address by the President, or the receipt of a message from him, discuss the matter referred to in such address or message

45 [73A. Rights of Ministers as respects Parliament

[(1) Every Minister shall have the right to speak in, and otherwise to take part in the proceedings of, Parliament, but shall not be entitled to vote 46 [or to speak on any matter not related to his Ministry] unless he is a member of Parliament also. .

(2) In this article, "Minister" includes a Prime Minister, 47* *, Minister of State and Deputy Minister.]

74. Speaker and Deputy Speaker

(1) Parliament shall at the first sitting after any general election elect from among its members a Speaker and a deputy Speaker, and if either office becomes vacant shall within seven days or, if Parliament is not then sitting, at its first meeting thereafter, elect one of its members to fill the vacancy.

(2) The Speaker or Deputy Speaker shall vacate his office—

- (a) if he ceases to be a member of Parliament;
- (b) if he becomes a Minister;

(c) if Parliament passes a resolution (after not less than fourteen days, notice has been given of the intention to move the resolution) supported by the votes of a majority of all the members thereof, requiring his removal from office;

(d) if he resigns his office by writing under his hand delivered to the President;

(e) if after a general election another member enters upon that office; or

(f) in the case of the Deputy Speaker, if he enters upon the office of Speaker.

(3) While the office of the Speaker is vacant or the Speaker is 48[acting as] President, or if it is determined by Parliament that the Speaker is otherwise unable to perform the functions of his office, those functions shall be performed by the Deputy Speaker or, if the office of the Deputy Speaker is vacant, by such member of Parliament as may be determined by or under the rules of procedure of Parliament; and during the absence of the Speaker from any sitting of Parliament the Deputy Speaker or, if he also is absent, such person as may be determined by or under the rules of procedure, shall act as Speaker.

(4) At any sitting of Parliament, while a resolution for the removal of the Speaker from his office is under consideration the Speaker (or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker) shall not preside, and the provisions of clause (3) shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be the Deputy Speaker is absent.

(5) The Speaker or the Deputy Speaker, as the case may be, shall have the right to speak in, and otherwise to take part in, the proceedings of Parliament while any resolution for his removal from office is under consideration in Parliament, and shall be entitled to vote but only as a member.

(6) Notwithstanding the provisions of clause (2) the Speaker or, as the case may be, the deputy speaker, shall be deemed to continue to hold office until his successor has entered upon office.

75. Rules of procedure, quorum, etc.

(1) Subject to this Constitution-

(a) the procedure of Parliament shall be regulated by rules of procedure made by it, and until such rules are made shall be regulated by rules of procedure made by the President;

(b) a decision in Parliament shall be taken by a majority of the votes of the members present and voting, but the person presiding shall not vote except when there is an equality of votes, in which case he shall exercise a casting

vote;

(c) no proceeding in Parliament shall be invalid by reason only that there is a vacancy in the membership thereof or that a person who was not entitled to do so was present at, or voted or otherwise participated in, the proceeding.

(2) If at any time during which Parliament is in session the attention of the person presiding is drawn to the fact that the number of members present is less than sixty, he shall either suspend the meeting until at least sixty members are present, or adjourn it.

76. Standing committees of Parliament

(1) 49* * * Parliament shall appoint from among its members the following standing committees, that is to say-

- (a) a public accounts committee;
- (b) committee of privileges; and
- (c) such other standing committees as the rules of procedure of Parliament require.

(2) In addition to the committees referred to in clause (1), Parliament shall appoint other standing committees, and a committee so appointed may, subject to his Constitution and to any other law-

- (a) examine draft Bills and other legislative proposals;
- (b) review the enforcement of laws and propose measures for such enforcement;
- (c) in relation to any matter referred to it by Parliament as a matter of public importance, investigate or inquire into the activities or administration of a Ministry and may require it to furnish, through an authorised representative, relevant information and to answer questions, orally or in writing;
- (d) perform any other function assigned to it by Parliament.

(3) Parliament may by law confer on committees appointed under this article powers for-

- (a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
- (b) compelling the production of documents.

77. Ombudsman

(1) Parliament may, by law, provide for the establishment of the office of Ombudsman.

(2) The Ombudsman shall exercise such powers and perform such functions as Parliament may, by law, determine, including the power to investigate any action taken by a Ministry, a public officer or a statutory public authority.

(3) The Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

78. Privileges and immunities of Parliament and members

(1) The validity of the proceedings in Parliament shall not be questioned in any court.

(2) A member or officer of Parliament in whom powers are vested for the regulation of procedure, the conduct of business or the maintenance of order in Parliament, shall not in relation to the exercise by him of any such powers be subject to the jurisdiction of any court.

(3) A member of Parliament shall not be liable to proceedings in any court in respect of anything said, or any vote given, by him in Parliament or in any committee thereof. (4) A person shall not be liable to proceedings in any court in respect of the publication by or under the authority of Parliament of any report, paper, vote or proceeding. (5) Subject to this article, the privileges of Parliament and of its committees and members may be determined by Act of Parliament.

79. Secretariat of Parliament

(1) Parliament shall have its own Secretariat. Secretariat of Parliament.

(2) Parliament may, by law, regulate the recruitment and conditions of service of persons appointed to the secretariat of Parliament.

(3) Until provision is made by Parliament the President may, after consultation with the Speaker, make rules regulating the recruitment and condition of service of persons appointed to the secretariat of Parliament, and rules so made shall have effect subject to the provisions of any law.

CHAPTER II- LEGISLATIVE AND FINANCIAL PROCEDURES 80. Legislative procedure

(1) Every proposal in Parliament for making law shall be made in the form of a Bill.

(2) When a Bill is passed by Parliament it shall be presented to the President for assent.

(3) The President, within fifteen days after a Bill is presented to him shall assent to the Bill * * * or, in the case of a Bill other than a money Bill may return it to parliament with a message requesting that the Bill or any particular provisions thereof be reconsidered, and that any amendments specified by him in the message be considered; and if he fails so to do he shall be deemed to have assented to the Bill at the expiration of that period.

(4) If the President so returns the Bill Parliament shall consider it together with the President's message, and if the Bill is again passed by Parliament with or without amendments [by the votes of a majority of the total number of members of Parliament], it shall be presented to the President for his assent, whereupon the President shall assent to the Bill within the period of

seven days after it has been presented to him, and if he fails to do so he shall be deemed to have assented to the Bill on the expiration of that period.

(5) When the President has assented or is deemed to have assented to a Bill passed by Parliament it shall become law and shall be called an Act of Parliament.

81. Money Bills

(1) In this Part "Money Bill" means a Bill containing only provisions dealing with all or any of the following matters—

- (a) the imposition, regulation, alteration, remission or repeal of any tax;
- (b) the borrowing of money or the giving of any guarantee by the Government, or the amendment of any law relating to the financial obligations of the Government;
- (c) the custody of the Consolidated Fund, the payment of money into, or the issue or appropriation of moneys from, the Fund;
- (d) the imposition of a charge upon the Consolidated Fund, or the alteration or abolition of any such charge;
- (e) the receipt of moneys on account of the Consolidated Fund or the Public Account of the Republic, or the custody or issue of such moneys, or the audit of the accounts of the Government;
- (f) any subordinate matter incidental to any of the matters specified in the foregoing sub-clauses.

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition or alteration of any fine or other pecuniary penalty, or for the levy or payment of a licence fee or a fee or charge for any service rendered, or by reason only that it provides for the imposition, regulation, alteration, remission or repeal of any tax by a local authority or body for local purposes.

(3) Every Money Bill shall, when it is presented to the President for his assent, bear a certificate under the hand of the Speaker that it is a Money Bill, and such certificate shall be conclusive for all purposes and shall not be questioned in any court.

82. Recommendation for financial measures

No Money Bill, or any Bill which involves expenditure from public moneys, shall be introduced into Parliament except on the recommendation of the President:

Provided that no recommendation shall be required under this article for the moving of an amendment making provision for the reduction or abolition of any tax.

83. No taxation except by or under Act of Parliament

No tax shall be levied or collected except by or under the authority of an Act of Parliament.

84. Consolidated Fund and the Public Account of the Republic

(1) All revenues received by the Government, all loans raised by the Government, and all moneys received by it in repayment of any loan, shall form part of one fund to be known as the Consolidated Fund.

(2) All other public moneys received by or on behalf of the Government shall be credited to the Public Account of the Republic.

85. Regulation of public moneys

The custody of public moneys, their payment into and the withdrawal from the Consolidated Fund or, as the case may be, the Public Account of the Republic, and matters connected with or ancillary to the matters aforesaid, shall be regulated by Act of Parliament, and until provision in that behalf is so made, by rules made by the President.

86. Moneys payable to Public Account of Republic

All moneys received by or deposited with-

(a) any person employed in the service of the Republic or in connection with the affairs of the Republic, other than revenues or moneys which by virtue of clause (1) of article 84 shall form part of the Consolidated Fund; or

(b) any court to the credit of any cause, matter, account or persons, shall be paid into the Public Account of the Republic.

87. Annual financial statement

(1) There shall be laid before Parliament in respect of each financial year, a statement of the estimated receipts and expenditure of the Government for that year, in this Part referred to as the annual financial statement.

(2) The annual financial statement shall show separately-

(a) the sums required to meet expenditure charged by or under this Constitution upon the Consolidated Fund; and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund; and shall distinguish expenditure on revenue account from other expenditure.

88. Charges on Consolidated Fund

The following expenditure shall be charged upon the Consolidated Fund-

(a) the remuneration payable to the President and other expenditure relating to his office; 52* * * * *

(b) the remuneration payable to-

(i) the Speaker and Deputy Speaker

(ii) the Judges of the 53 [Supreme Court 54* * *]

- (iii) the Comptroller and Auditor-General;
- (iv) the Election Commissioners;
- (v) the members of the Public Service Commissions;
- (c) the administrative expenses of, including remuneration payable to, officers and servants of Parliament, the Supreme Court 55* * the Comptroller and Auditor-General, the Election Commission and the Public Service Commissions;
- (d) all debt charges for which the Government is liable, including interest, sinking fund charges, the repayment or amortisation of capital, and other expenditure in connection with the raising of loans and the service and redemption of debt;
- (e) any sums required to satisfy a judgment, decree or award against the Republic by any court or tribunal; and
- (f) any other expenditure charged upon the Consolidated Fund by this Constitution or by Act of Parliament.

89. Procedure relating to annual financial statement

- (1) So much of the annual financial statement as relates to expenditure charged upon the Consolidated Fund may be discussed in, but shall not be submitted to the vote of, Parliament.
- (2) So much of the annual financial statement as relates to other expenditure shall be submitted to Parliament in the form of demands for grants, and Parliament shall have power to assent to or to refuse to assent to any demand, or to assent to it subject to a reduction of the amount specified therein.
- (3) No demand for a grant shall be made except on the recommendation of the President.

90. Appropriation Act

- (1) As soon as may be after the grants under article 89 have been made by Parliament there shall be introduced in Parliament a Bill to provide for appropriation out of the Consolidated Fund of all moneys required to meet—
 - (a) the grants so made by Parliament; and
 - (b) the expenditure charged on the Consolidated Fund but not exceeding in any case the amount shown in the annual financial statement laid before Parliament.
- (2) No amendment shall be proposed in Parliament to any such Bill which has the effect of varying the amount of any grant so made or altering the purpose to which it is to be applied, or of varying the amount of any expenditure charged on the Consolidated Fund.
- (3) Subject to the provisions of this Constitution no money shall be withdrawn from the Consolidated Fund except under appropriation made by law passed in accordance with the provisions of this article.

91. Supplementary and excess grants

If in respect of any financial year it is found-

(a) that the amount authorised to be expended for a particular service for the current financial year is insufficient or that a need has arisen for expenditure upon some new service not included in the annual financial statement for that year; or

(b) that any money has been spent on a service during a financial year in excess of the amount granted for that service for that year. the President shall have power to authorise expenditure from the Consolidated Fund whether or not it is charged by or under the Constitution upon that Fund and shall cause to be laid before Parliament a supplementary financial statement setting out the estimated amount of the expenditure or, as the case may be an excess financial statement setting out the amount of the excess, and the provisions of articles 87 to 90 shall (with the necessary adaptations) apply in relation to those statements as they apply in relation to the annual financial statement.

92. Votes on account, votes of credit, etc.

(1) Notwithstanding anything in the foregoing provisions of this Chapter, Parliament shall have power-

(a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 89 for the voting of such grant and the passing of a law in accordance with the provisions of article 90 in relation to that expenditure;

(b) to make a grant for meeting an unexpected demand upon the resources of the Republic when on account of the magnitude or the indefinite character of the service the demand cannot be specified with the details ordinarily given in an annual financial statement;

(c) to make an exceptional grant which forms no part of the current service of any financial year; and Parliament shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund for the purposes for which such grants are made.

(2) The provisions of articles 89 and 90 shall have effect in relation to the making of any grant under clause (1), and to any law to be made under that clause, as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and to the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund to meet such expenditure.

56[(3) Notwithstanding anything contained in the foregoing provisions of the this Chapter, if, in respect of a financial year, Parliament-

(a) has failed to make the grants under article 89 and pass the law under article 90 before the beginning of that year and has not also made any grant in advance under this article; or

(b) has failed to make the grants under article 89 and pass the law under

article 90 before the expiration of the period for which the grants in advance, if any, were made under this article, the President may, upon the advice of the prime Minister, by order, authorise the withdrawal from the Consolidated Fund moneys necessary to meet expenditure mentioned in the financial statement for that year for a period not exceeding sixty days in year, pending the making of the grants and passing of the law.]

CHAPTER III- ORDINANCE MAKING POWER93. Ordinance making power

(1) At any time when 58[Parliament stands dissolved or is not in session], if the President is satisfied that circumstances exist which render immediate action necessary, he may make and promulgate such Ordinances as the circumstances appear to him to require, and any Ordinance so made shall, as from its promulgation have the like force of law as an Act of Parliament: Provided that no Ordinance under this clause shall make any provision-

(i) which could not lawfully be made under this Constitution by Act of Parliament;

(ii) for altering or repealing any provision of this Constitution; or

(iii) continuing in force any provision of an Ordinance previously made.

(2) An Ordinance made under clause (1) shall be laid before Parliament at its first meeting following the promulgation of the Ordinance and shall, unless it is earlier repealed, cease to have effect at the expiration of thirty days after it is so laid or, if a resolution disapproving of the Ordinance is passed by Parliament before such expiration, upon the passing of the resolution.

(3) At any time when Parliament stands dissolved the President may, if he is satisfied that circumstances exist which render such action necessary, make and promulgate an Ordinance authorising expenditure from the Consolidated Fund, whether the expenditure is charged by the Constitution upon that fund or not, and any Ordinance so made shall, as from its promulgation, have the like force of law as an Act of Parliament.

(4) Every Ordinance promulgated under clause (3) shall be laid before Parliament as soon as may be, and the provisions for articles 87, 89 and 90 shall, with necessary adaptations, be complied with in respect thereof within thirty days of the reconstitution of Parliament.

PART VI THE JUDICIARY

CHAPTER I- THE SUPREME COURT

94. Establishment of Supreme Court

(1) There shall be a Supreme Court for Bangladesh (to be Known as the Supreme Court of Bangladesh) comprising the Appeallate Division and the High Court Division.

(2) The Supreme Court shall consist of the Chief Justice, to be known as the Chief Justice of Bangladesh, and such number of other Judges as the President may deem it necessary to appoint to each division.

(3) The Chief Justice, and the Judges appointed to the Appellate Division, shall sit only in that division, and the other Judges shall sit only in the High Court Division.

(4) Subject to the provisions of this Constitution the Chief Justice and the other Judges shall be independent in the exercise of their judicial functions.

95. Appointment of Judges

(1) The Chief Justice and other Judges shall be appointed by the President.

(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 a 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 other qualifications as may be prescribed by law for appointment as a Judge of the Supreme Court.

(3) In this articles, "Supreme Court" includes 'a Court which at any time before the commencement of the Second Proclamation (Tenth Amendment) Order, 1977, exercised jurisdiction as a High Court or Supreme Court in the territory now forming part of Bangladesh.

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 60[sixty-seven] years.

(2) A Judge shall not be removed from 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 is 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 function 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.

(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 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.

97. Temporary appointment of Chief Justice

If the office of the Chief Justice becomes vacant, or if the President is
satisfied that the Chief Justice is, on account of absence, illness, or any
other cause, unable to perform the functions of his office, those functions
shall, until some other person has entered upon that office, or until the
Chief Justice has resumed his duties, as the case may be, be performed by the
next most senior Judge of the Appellate Division.

98. Additional Supreme Court Judges

Notwithstanding the provisions of article 94, if the President is satisfied
that the number of the Judge of a division of the Supreme Court should be for
the time being increased, the President may appoint one or more duly qualified
person to be Additional Judges of that division for such period not exceeding
two years as he may specify, or, if he thinks fit, 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
jurisdiction, powers and functions as a Judge of the Appellate Division.
Provided that nothing in this article shall prevent a person appointed as an
Additional Judge from being appointed as a Judge under article 95 or as an
Additional Judge for a further period under this article.

99. Disabilities of Judges

(1) Except as provided in clause (2), a person who has held office as a Judge otherwise than as an Additional Judge shall not, after his retirement or removal therefrom, plead or act before any court or authority or hold any office or profit in the service of the Republic not being a judicial or quasi-judicial office 60a[or the office of Chief Adviser or Adviser].

(2) 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.

61100. 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.

Article 100 as amended by the said Act runs thus:-

"100. Seat of Supreme Court.-

(1) Subject to this article, the permanent seat of the Supreme Court shall be in the capital.

(2) The High Court Division and the Judges thereof shall sit at the permanent seat of the Supreme Court and at the seats of its permanent Benches.

(3) The High Court Division shall have a permanent Bench each at Barisal, Chittagong, Comilla, Jessore, Rangpur and Sylhet, and each permanent Bench shall have such Benches as the Chief Justice may determine from time to time.

(4) A permanent Bench shall consist of such number of Judges of the High Court Division as the Chief Justice may deem it necessary to nominate to that Bench from time to time and on such nomination the Judges shall be deemed to have been transferred to that Bench.

(5) The President shall, in consultation with the Chief Justice, assign the area in relation to which each permanent Bench shall have jurisdictions, powers and functions conferred or that may be conferred on the High Court Division by this Constitution or any other law; and the area not so assigned shall be the area in relation to which the High Court Division sitting at the permanent seat of the Supreme Court shall have such jurisdictions, powers and functions.

(6) The Chief Justice shall make rules to provide for all incidental,

supplemental or consequential matters relating to the permanent Benches. "

101. Jurisdiction of High Court Division

The High Court Division shall have such original, appellate and other jurisdictions, powers and functions as are or may be conferred on it by this Constitution or any other law.

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 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), 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 or 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 disciplined force or a tribunal to which article 117 applies.

103. Jurisdiction of Appellate Division

(1) The Appellate Division shall have jurisdiction to hear and determine appeals from judgments, decrees, orders or sentences of the High Court Division.

(2) An appeal to the Appellate Division from a judgment, decree, order or sentence of the High Court Division shall lie as of right where the High Court Division-

(a) certifies that the case involves a substantial question of law as to the interpretation of this constitution ; or

(b) has sentenced a person to death or to 62[imprisonment] for life, or

(c) has imposed punishment on a person for contempt of that division; and in such other cases as may be provided for by Act of Parliament.

(3) An appeal to the Appellate Division for a judgment, decree, order or sentence of the High Court Division in a case to which clause (2) does not apply shall lie only if the Appellate Division grants leave to appeal.

(4) Parliament may by law declare that the provisions of this article shall apply in relation to any other court or tribunal as they apply in relation to the High Court Division.

104. Issue and execution of process of Appellate Division

The Appellate Division shall have power to issue such directions, orders, decrees or writs as may be necessary for doing complete justice in any cause or matter pending before it, including orders for the purpose of securing the attendance or any person or the discovery or production of any document.

105. Review of Judgments or orders by Appellate Division

The Appellate Division shall have power, subject to the provisions of any Act of Parliament and of any rules made by that division to review any judgment pronounced or order made by it.

106. Advisory jurisdiction of Supreme Court

If at any time it appears to the President that a question of law has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he

may refer the question to the Appellate Division for consideration and the division may, after such hearing as it thinks fit, report its opinion thereon to the President.

107. Rule making power of the Supreme Court

(1) Subject to any law made by Parliament the Supreme Court may, with the approval of the President, make rules for regulating the practice and procedure of each division of the Supreme Court and of any court subordinate to it.

(2) The Supreme Court may delegate any of its functions under clause (1) and article 113 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 Judge are to constitute any Bench of a division of the Supreme Court 63* * * * and which Judges are to sit for any purpose.

(4) The Chief Justice may authorise the next most senior-Judge of either Division of the Supreme Court to exercise in that division any of the powers conferred by clause (3) or by rules made under this article.

108. Supreme Court as court of record

The Supreme Court shall be a court of record and shall have all the powers of such a court including the power subject to law to make an order for the investigation of or punishment for any contempt of itself.

109. Superintendence and control over courts

The High Court shall have superintendence and control over all courts 64[and tribunals] subordinate to it.

110. Transfer of cases from subordinate courts to High Court Division

If the High Court Division is satisfied that a case pending in a Court subordinate to it involves a substantial question of law as to the interpretation of this Constitution, or on a point of general public importance, the determination of which is necessary for the disposal of the case, it shall withdraw the case from that court and may-

- (a) either dispose of the case itself; or
- (b) determine the question of law and return the case to the court from which it has been so withdrawn (or transfer it to another subordinate court) together with a copy of the judgement of the division on such question, and the court to which the case is so returned or transferred shall, on receipt thereof, proceed to dispose of the case in conformity with such judgement.

111. Binding effect of Supreme Court judgments

The law declared by the Appellate Division shall be binding on the High Court Division and the law declared by either division of the Supreme Court shall be

binding on all courts subordinate to it.

112. Action in aid of Supreme Court

All authorities, executive and judicial, in the Republic shall act in aid of the Supreme Court.

113. Staff of Supreme Court

(1) Appointments of the staff of the Supreme Court shall be made by the Chief Justice or such other judge or officer of that Court as he may direct, and shall be made in accordance with rules made with the previous approval of the President by the Supreme Court.

(2) Subject to the provisions of any Act of Parliament the conditions of service of members of the staff of the Supreme Court shall be such as may be prescribed by rules made by that court.

CHAPTER II - SUBORDINATE COURTS

114. Establishment of subordinate courts

There shall be in addition to the Supreme Court 65* * such courts subordinate thereto as may be established by law.

66[115. Appointments to subordinate courts

Appointments of persons to offices in the judicial service or as magistrates exercising judicial functions shall be made by the President in accordance with rules made by him in that behalf.]

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 67[President] 68[and shall be exercised by him in consultation with the Supreme Court].

69[116A. Judicial officers to be independent in the exercise of their functions

117. Administrative tribunals

(1) Notwithstanding anything hereinbefore contained, Parliament may by law establish one or more administrative tribunals to exercise jurisdiction in respect of matter relating to or arising out of-

(a) the terms and conditions of persons in the service of the Republic, including the matters provided for in Part IX and the award of penalties or punishment;

(b) the acquisition, administration, management and disposal of any property vested in or managed by the Government by or under any law, including the operation and management of, and service in any nationalised enterprise or statutory public authority;

70[(c) any law to which clause (3) of article 102 applies.]

(2) Where any administrative tribunal is established under this article, no court shall entertain any proceedings or make any order in respect of any matter falling within the jurisdiction of such tribunal: Provided that Parliament may, by law, provide for appeals from, or the review of, decisions of any such

PART VII ELECTIONS

118. Establishment of Election Commission

(1) There shall an Election Commission for Bangladesh consisting of a Chief Election Commissioner and such number of other Election Commissioners, if any as the President may from time to time direct, and the appointment of the Chief Election Commissioner and other Election commissioners (if any) shall, subject to the provisions of any law made in that behalf, be made by the President.

(2) When the Election Commission consists of more than one person, the Chief Election Commissioner shall act as the chairman thereof.

(3) Subject to the provisions of this Constitution the term of office of an Election Commissioner shall be five years from the date on which he enters upon his office, and-

(a) a person who has held office as Chief Election Commissioner shall not be eligible for appointment in the service of the Republic;

(b) any other election Commissioner shall, on ceasing to hold office as such, be eligible for appointment as Chief Election Commissioner but shall not be otherwise eligible for appointment in the service of the Republic.

(4) The Election Commission shall be independent in the exercise of its functions and subject only to this Constitution and any other law.

(5) Subject to the provisions of any law made by Parliament, the conditions of service of Election Commissioners shall be such as the President may, by order, determine:

Provided that an Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a judge of the 72 [Supreme Court.]

(6) An Election Commissioner may resign his office by writing under his hand address to the President.

119. Functions of Election Commission

73[(1) The superintendence, direction and control of the preparation of the election rolls for elections to the office or President and to Parliament and the conduct of such elections shall vest in the Election Commission which shall, in accordance with his Constitution and any other law-

- (a) hold elections to the office of President;
 - (b) hold elections of members of Parliament;
 - (c) delimit the constituencies for the purpose of elections to Parliament; and
 - (d) prepare electoral rolls for the purpose of elections to the office of President and to Parliament.
- (2) The Election Commission shall perform such functions, in addition to those specified in the foregoing clauses, as may be prescribed by this Constitution or by any other law.

120. Staff of Election Commission

The President shall, when so requested by the Election Commission, make available to it such staff as may be necessary for the discharge of its functions under this Part.

121. Single electoral roll for each constituency

There shall be one electoral roll for each constituency for the purposes of elections to Parliament, and no special electoral roll shall be prepared so as to classify electors according to religion, race caste or sex.

122. Qualifications for registration as voter

(1) The elections 74 * * * * to Parliament shall be on the basis of adult franchise.

(2) A person shall be entitled to be enrolled on the electoral roll for a constituency delimited the purpose of election to Parliament, if he—

- (a) is a citizen of Bangladesh;
- (b) is not less than eighteen years of age;
- (c) does not stand declared by a competent court to be of unsound mind;
- 75 [and]
- (d) is or is deemed by law to be a resident of that constituency 76[.]

123. Time for holding elections

79 [(1) In the case of a vacancy in the office of President occurring by reason of the expiration of his term of office an election to fill the vacancy shall be held within the period of ninety to sixty days prior to the date of expiration of the term:

Provided that if the term expires before the dissolution of the Parliament by members of which he was elected the election to fill the vacancy shall not be held until after the next general election of members of Parliament, but shall be held within thirty days after the first sitting of Parliament following such general election.

(2) In the case of a vacancy in the office of President occurring by reason of the death, resignation or removal of the President, an election to fill the vacancy shall be held within the period of ninety days after the occurrence of

the vacancy.]

79a[(3) A general election of members of Parliament shall be held within ninety days after Parliament is dissolved, whether by reason of the expiration of its term or otherwise than by reason of such expiration.]

(4) An election to fill the seat of a member of Parliament which falls vacant otherwise than by reason of the dissolution of Parliament shall be held within ninety days of the occurrence of the vacancy [:]

80[Provided that in a case where, in the opinion of the Chief Election Commissioner, it is not possible, for reasons of an act of God, to hold such election within the period specified in this clause, such election shall be held within ninety days following next after the last day of such period.]

124. Parliament may make provision as to elections

Subject to the provisions of this Constitution, Parliament may by law make provision with respect to all matters relating to or in connection with election to Parliament, including the delimitation of constituencies, the preparation of electoral rolls, the holding of elections, and all other matters necessary for securing the due Constitution of Parliament.]

125. Validity of election law and elections

Notwithstanding anything in this Constitution—

(a) the validity of any law relating to the delimitation of constituencies, or the allotment of seats to such constituencies, made or purporting to be made under article 124, shall not be called in question in any court;

(b) no election to the 82[offices of President 83 * *] or to Parliament shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by Parliament.

126. Executive authorities to assist Election Commission

It shall be the duty of all executive authorities to assist the Election Commission in the discharge of its functions.

PART VIII THE COMPTROLLER AND AUDITOR-GENERAL

127. Establishment of office of Auditor-General

(1) There shall be a Comptroller and Auditor-General of Bangladesh (hereinafter referred to as the Auditor-General) who shall be appointed by the President.

(2) Subject to the provisions of this Constitution and of any law made by Parliament, the conditions of service of the Auditor-General shall be such as the President may, by order, determine.

128. Functions of Auditor-General

(1) The public accounts of the Republic and of all courts of law and all authorities and officers of the Government shall be audited and reported on by the Auditor-General and for that purpose he or any person authorised by him in that behalf shall have access to all records, books, vouchers, documents, cash, stamps, securities, stores or other government property in the possession of any person in the service of the Republic.

(2) Without prejudice to the provisions of clause (1), if it is prescribed by law in the case of any body corporate directly established by law, the accounts of that body corporate shall be audited and reported on by such person as may be so prescribed.

(3) Parliament may by law require the Auditor-General to exercise such functions, in addition to those specified in clause (1), as such law may prescribe, and until provision is made by law under this clause the President may, by order, make such provision.

(4) The Auditor-General, in the exercise of his functions under clause (1), shall not be subject to the direction or control of any other person or authority.

129. Term of office of Auditor-General

(1) The Auditor-General shall, subject to the provisions of this article, hold office for five years from the date on which he entered upon his office, or until he attains the age of sixty-five years, whichever is earlier.

(2) The Auditor-General shall not be removed from his office except in like manner and on the like ground as a judge of the 84[Supreme Court].

(3) The Auditor-General may resign his office by writing under his hand addressed to the President.

(4) On ceasing to hold office the Auditor-General shall not be eligible for further office in the service of the Republic.

130. Acting Auditor-General

At any time when the office of Auditor-General is vacant, or the President is satisfied that the Auditor-General is unable to perform his functions on account of absence, illness or any other cause, the President may appoint a person to act as Auditor-General and to perform the functions of that office until an appointment is made under article 127 or, as the case may be until the Auditor-General resumes the functions of his office.

131. Form and manner of keeping public accounts

The public accounts of the Republic shall be kept in such form and in such manner as the Auditor-General may, with the approval of the President, prescribe.

132. Reports of Auditor-General to be laid before Parliament

The reports of the Auditor-General relating to the Reports of public accounts of the Republic shall be submitted to the President, who shall cause them to be laid before Parliament.

PART IX THE SERVICES OF BANGLADESH CHAPTER 1 SERVICES 133. Appointment and conditions of service

Subject to the provisions of this Constitution Parliament may by law regulate the appointment and conditions of service of person in the service of the Republic:

Provided that it shall be competent for the President to make rules regulating the appointment and the conditions of service such person until provision in that behalf is made by or under any law, and rules so made shall have effect subject to the provisions of any such law.

134. Tenure of office

Except as otherwise provided by this Constitution every person in the service of the Republic shall hold office during the pleasure of the President.

135. Dismissal, etc., of civilian public officers

(1) No person who holds any civil post in the service of the Republic shall be dismissed or removed or reduced in rank by an authority subordinate to that by which he was appointed.

(2) No such person shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause why that action should not be taken:

Provided that this clause shall not apply-

(i) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction of a criminal offence; or

(ii) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that, for a reason recorded by that authority in writing, it is not reasonably practicable to give that person an opportunity of showing cause; or

(iii) where the President is satisfied that in the interests of the security of the State it is not expedient to give that person such an opportunity.

(3) If in respect of such a person the question arises whether it is

reasonably practicable to give him an opportunity to show cause in accordance with clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.

(4) Where a person is employed in the service of the Republic under a written contract and that contract is terminated by due notice in accordance with its terms, he shall not, by reason thereof, be regarded as removed from office for the purposes of this article.

136. Reorganisation of service

Provision may be made by law for the reorganisation of the service of the Republic by the creation, amalgamation or unification of services and such law may vary or revoke any condition of service of a person employed in the service of the Republic.

137. Establishment of Commissions

Provision shall be made by law for establishing one or more public service commissions for Bangladesh, each of which shall consist of a chairman and such other members as shall be prescribed by law.

138. Appointment of members

(1) The chairman and other members of each public service commission shall be appointed by the President.

Provided that not less than one-half of the members of a commission shall be persons who have held office for twenty years or more in the service of any government which has at any time functioned within the territory of Bangladesh.

(2) Subject to any law made by Parliament the conditions of service of the chairman and other members of a public service commission shall be such as the President may, by order, determine.

139. Term of office

(1) The term of office of the chairman and other members of a public service commission shall, subject to the provisions of this article, expire five years after the date on which he entered upon his office, or when he attains the age of sixty-five years, whichever is earlier;

(2) The chairman and other members of such a commission shall be removed from office except in like manner and on the like grounds as a judge of the 85[Supreme Court].

(3) A chairman or other member of a public service commission may resign his office by writing under his hand addressed to the President.

(4) On ceasing to hold office a member of a public service commission shall not be eligible for further employment in the service of the Republic, but, subject to the provisions of clause (1)–

(a) a chairman so ceasing shall be eligible for re-appointment for one further term; and

(b) a member (other than the chairman) so ceasing shall be eligible for re-appointment for one further term or for appointment as chairman of a public service commission.

140. Functions of Commissions

(1) The functions of a public service commission shall be-

(a) to conduct tests examinations for the selection of suitable persons for appointment of the service of the Republic;

(b) to advise the President on any matter on which the commission is consulted under clause (2) or on any matter connected with its functions which is referred to the commission by the President; and

(c) such other functions as may be prescribed by law.

(2) Subject to the provisions of any law made by Parliament, and any regulation (not inconsistent with such law) which may be made by the President after consultation with a commission, the President shall consult a commission with respect to-

(a) matters relating to qualifications for, and methods of recruitment to, the service of the Republic;

(b) the principles to be followed in making appointments to that service and promotions and transfers from one branch of the service to another, and the suitability of candidates for such appointment, promotions and transfers;

(c) matters affecting the terms and conditions (including person rights) of that service; and

(d) the discipline of the service.

141. Annual report

(1) Each commission shall, not later than the first day of March each year, prepare and submit to the President a report of the performance of its functions during the period ended on the previous 31st day of December.

(2) The report shall be accompanied by a memorandum setting out, so far as is known to the commission-

(a) the cases, if any, in which its advise was not accepted and the reasons why it was not accepted;

(b) the cases where the commission ought to have been consulted and was not consulted, and the reasons why it was not consulted.

(3) The President shall cause the report and memorandum to be laid before Parliament at its first meeting held after 31st March in the year in which the report was submitted.

PART IXA EMERGENCY PROVISIONS

141A. Proclamation of Emergency

(1) If the President is satisfied that a grave emergency exists in which the security or economic life of Bangladesh, or any part thereof, is threatened by war or external aggression or internal disturbance, he may issue a Proclamation of Emergency:

88[Provided that such Proclamation shall require for its validity the prior counter signature of the Prime Minister.]

(2) A Proclamation of Emergency-

- (a) may be revoked by a subsequent Proclamation;
- (b) shall be laid before Parliament;
- (c) shall cease to operate at the expiration of one hundred and twenty days, unless before the expiration of that period it has been approved by a resolution of Parliament:

Provided that if any such Proclamation is issued at a time when Parliament stands dissolved or the dissolution of Parliament takes place during the period of one hundred and twenty days referred to in sub-clause (c), the Proclamation shall cease to operate at the expiration of thirty days from the date on which Parliament first meets after its re-constitution, unless before that expiration of the meets after its re-constitution, unless before that expiration of the said period of thirty days a resolution approving the Proclamation has been passed by Parliament.

(3) A Proclamation of Emergency declaring that the security of Bangladesh, or any part thereof, is threatened by war or external aggression or by internal disturbance may be made before the actual occurrence of war or any such aggression or disturbance if the President is satisfied that there is imminent danger thereof.

141B. Suspension of provisions of certain articles during emergencies

While a Proclamation of Emergency is in operation, nothing in articles 36, 37, 38, 39, 40 and 42 shall restrict the power of the State to make any law or to take any executive action which the State would, but for the provisions contained in Part III of this Constitution, be competent to make or to take, but any law so made shall, to the extent of the incompetence, cease to have effect as soon as the Proclamation ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect.

141C. Suspension of enforcement of fundamental right during emergencies

(1) While a Proclamation of Emergency is in operation, the President may, 89[on the written advice of the Prime Minister, by order], declare that the right to move any court for the enforcement of such of the rights conferred by Part III of this Constitution as may be specified in the order, and all proceedings pending in any court for the enforcement of the right so specified, shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the order.

(2) An order made under this article may extend to the whole of Bangladesh or any part thereof.

(3) Every order made under this article shall, as soon as may be, be laid before Parliament

PART X AMENDMENT OF THE CONSTITUTION

142. Power to amend 91* * any provision of the Constitution

90[(1)] Notwithstanding anything contained in this Constitution-

(a) any provision thereof may by 92[amended by way of addition, alteration, substitution or repeal] by Act of Parliament:

Provided that-

(i) no Bill for such amendment 91* * shall be allowed to proceed unless the long title thereof expressly states that it will amend 91* * 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.

93[(1A) Notwithstanding anything contained in clause (1), when a Bill, passed as aforesaid,, which provides for the amendment of the Preamble or any provisions of articles 8, 48 94[0r] 56 95* * * or this article, is presented to the President for assent, the President, shall within the period of seven days, after the Bill is presented to him, cause to be referred to a referendum the question whether the Bill should or should not be assented to.

(1B) A referendum under this article shall be conducted by the Election Commission, within such period and in such manner as may be provided by law, amongst the person enrolled on the electoral roll prepared for the purpose of election to 96[Parliament].

(1C) On the day on which the result of the referendum conducted in relation to a Bill under this article is declared, the President shall be deemed to have-

(a) assented to the Bill, if the majority of the total votes cast are in favour of the Bill being assented to; or

(b) Withheld assent therefrom, if the majority of the total votes cast are not in favour of the Bill being assented to.]

97[1D) Nothing in clause (1C) shall be deemed to be an expression of confidence or no-confidence in the Cabinet or Parliament]

98[(2) Nothing in article 26 shall apply to any amendment made under this article

PART XI MISCELLANEOUS

143. Property of the Republic

(1) There shall vest in the Republic, in addition to any other land or property lawfully vested—

(a) all minerals and other things of value underlying any land of Bangladesh;
(b) all lands, minerals and other things of value underlying the ocean within the territorial waters, or the ocean over the continental shelf, of Bangladesh; and

(c) any property located in Bangladesh that has no rightful owner.

(2) Parliament may from time to time by law provide for the determination of the boundaries of the territory of Bangladesh and of the territorial waters and the continental shelf of Bangladesh.

144. Executive authority in relation to property, trade, etc.

The executive authority of the Republic shall extend to the acquisition, sale, transfer, mortgage and disposal of property, the carrying on of any trade or business and the making of any contract.

145. Contracts and deeds

(1) All contracts and deeds made in exercise of the executive authority of the Republic shall be expressed to be made by the President, and shall be executed on behalf of the President by such person and in such manner as he may direct or authorise.

(2) Where a contract or deed is made or executed in exercise of the executive authority of the Republic, neither the President nor any other person making or executing the contract or deed in exercise of the authority shall be personally liable in respect thereof, but this article shall not prejudice the right of any person to take proceedings against the Government.

99[145A. International treaties

All treaties with foreign countries shall be submitted to the President, who shall cause them to be laid before Parliament:

100[Provided that any such treaty connected with national security shall be laid in a secret session of Parliament]]

146. Suits in name of Bangladesh

The Government of Bangladesh may sue or be sued by the name of Bangladesh.

147. Remuneration, etc., of certain officers

(1) The remuneration, privileges and other terms and conditions of service of a person holding or acting in any office to which this article applies shall be determined by or under Act of parliament, but until they are so determined—

(a) they shall be those (if any) appertaining to the person holding or, as the

case may be acting in the office in question immediately before the commencement of this Constitution; or

(b) if the preceding sub-clause is not applicable, they shall be determined by order made by the President.

(2) The remuneration, privileges and other terms and conditions of service of a person holding or acting in any office to which this article applies shall not be varied to the disadvantage of any such person during his term of office.

(3) No person appointed to or acting in any office to which this article applies shall hold any office, post or position of profit or emolument or take any part whatsoever in the management or conduct of any company, association or body having profit or gain as its object:

Provided that such person shall not for the purposes of this clause be deemed to hold any such office, post or position by reason only that he holds or is acting in the office first above-mentioned.

(4) This article applies to the offices of -

(a) President;

102[(b) Prime Minister and Chief Advisor;]

(c) Speaker or Deputy Speaker;

103[(d) Minister, Advisor, Minister of State or Deputy Minister;]

(e) Judge of the Supreme Court;

104* * * * *

(f) Comptroller and Auditor-General;

(g) Election Commissioner;

(h) Member of a public service commission.

148. Oaths of office

(1) A person elected or appointed to any office mentioned in the Third Schedule shall before entering upon the office make and subscribe an oath or affirmation (in this article referred to as "an oath") in accordance with that Schedule.

(2) Where under this Constitution an oath is required to be administered by a specified person 106* * *, it may be administered by such other person and at such place as may be designated by that person.

(2A) If, within three days next after publication through official Gazette of the result of a general election of members of Parliament under clause (3) of article 123, the person specified under the Constitution for the purpose or such other person designated by that person for the purpose, is unable to, or does not, administer oath to the newly elected members of Parliament, on any account, the Chief Election Commissioner shall administer such oath within three days next thereafter, as if, he is the person specified under the

Constitution for the purpose.

(3) Where under this Constitution a person is required to make an oath before he enters upon an office he shall be deemed to have entered upon the office immediately after he makes the oath.

149. Saving for existing laws

Subject to the provisions of this Constitution all existing laws shall continue to have effect but may be amended or repealed by law made under this Constitution.

150. Transitional and temporary provisions

The transitional and temporary provisions set out in the Fourth Schedule shall have effect notwithstanding any other provisions of this Constitution.

151. Repeals

The following President's Orders are hereby repealed-

- (a) The laws Continuance Enforcement Order made on 10th April, 1971;
- (b) The Provisional Constitution of Bangladesh Order, 1972;
- (c) The High Court of Bangladesh Order, 1972 (P.O. No. 5 of 1972);
- (d) The Bangladesh Comptroller and Auditor-General Order, 1972 (P.O. No. 15 of 1972)
- (e) The Constituent Assembly of Bangladesh Order, 1972 (P.O. No. 22 of 1972)
- (f) The Bangladesh Election Commission Order, 1972 (P.O. No. 25 of 1972)
- (g) The Bangladesh Public Service Commissions Order 1972 (P.O. No. 34 of 1972)
- (h) The Bangladesh Transaction of Government Business Order, 1972 (P.O. No. 58 of 1972)

152. Interpretation

(1) In this Constitution, except where the subject or context otherwise requires-

Interpretation "Administrative unit" means a district or other area designated by law for the purposes of article 59; 106a["Advisor" means a person appointed to that office under article 58C;]

107["the Appellate Division" means the Appellate Division of the Supreme Court;]

"article" means an article of this Constitution;

"borrowing" includes the raising of money by annuity, and "loan" shall be construed accordingly;

"the capital" has the meaning assigned to that expression in article 5;

106a["Chief Adviser" means a person appointed to that office under article 58C.]

"Chief Election Commissioner" means a person appointed to that office under article 118;

107"The Chief Justice" means the Chief Justice of Bangladesh;

"citizen" means a person who is a citizen of Bangladesh according to the law relating to citizenship;

"clause" means a clause of the article in which the expression occurs;

108["court"means any court of law including Supreme Court;]

"debt" includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and "debt charge" shall be construed accordingly;

"disciplinary law" means a law regulating the discipline of any disciplined force;

"disciplined force" means-

(a) the army navy or air force;

(b) the police force;

(c) any other force declared by law to be a disciplined force within the meaning of this definition;

"district judge" includes additional district judge;

"existing law" means any law in force in, or in any part of, the territory of Bangladesh immediately before the commencement of this Constitution, whether or not it has been brought into operation;

"financial year" means a year commencing on the first day of July;

"guarantee" includes any obligation undertaken before the commencement of this Constitution to make payments in the event of the profits of an undertaking falling short of a specified amount;

109["the High Court Division" means the High Court Division of the Supreme Court;]

109["judge" means a judge of a division of the Supreme Court;]

"judicial service" means a service comprising person holding judicial posts not being posts superior to that of a district judge;

"law" means any Act, ordinance, order rule, regulation, bye-law, notification or other legal instrument, and any custom or usage, having the force of law in Bangladesh;

"Parliament" means the Parliament for Bangladesh established by article 65;

"Part" means a Part of this Constitution;

"pension" means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay or gratuity so payable by way of the return or any addition thereto of subscriptions to a provident fund;

"political party" includes a group or combination of persons who operate within or outside Parliament under a distinctive name and who hold themselves out for the purpose of propagating a political opinion or engaging in any other political activity;

"the President" means the President of Bangladesh elected under this Constitution or any person for the time being acting in that office;

"property" includes property of every description movable or immovable corporeal or incorporeal, and commercial and industrial undertakings, and any right or interest in any such property or undertaking;

"public notification" means a notification in the Bangladesh Gazette.

"public officer" means person holding or acting in any office of emolument in the service of the Republic;

"the Republic" means the People's Republic of Bangladesh;

"Schedule" means a schedule to this Constitution;

"securities" includes stock;

"the service of the Republic" means any service, post or office whether in a civil or military capacity, in respect of the Government of Bangladesh, and any other service declared by law to be a service of the Republic;

"session", in relation to Parliament, means the sittings of Parliament commencing when it first meets after the commencement of this Constitution or after a prorogation or dissolution of Parliament and terminating when Parliament is prorogued or dissolved;

"sitting" in relation to Parliament, means a period during which Parliament is sitting continuously without adjournment;

"the Speaker" means the person for the time being holding the office of Speaker pursuant to article 74;

"the State" includes Parliament, the Government and statutory public authorities;

"statutory public authority" means any authority, corporation or body the activities or the principal activities of which are authorised by any Act, ordinance, order or instrument having the force of law in Bangladesh;

"sub-clause" means a sub-clause of the clause in which the expression occurs;

110["the Supreme Court" means the Supreme Court of Bangladesh constituted by article 94;]

"taxation" includes the imposition of any tax, rate, duty or impost, whether general, local or special, and "tax" shall be construed accordingly [;]111

(2) The General Clauses Act, 1897 shall apply in relation to-

- (a) this Constitution as it applies in relation to an Act of Parliament;
- (b) any enactment repealed by this Constitution, or which by virtue thereof becomes void or ceases to have effect, as it applies in relation to any enactment repealed by Act of Parliament.

153. Commencement, citation and authenticity

(1) This Constitution may be cited as the Constitution of the People's Republic of Bangladesh and shall come into force on the sixteenth day of December, 1972, in this Constitution referred to as the commencement of this Constitution.

(2) There shall be an authentic text of this Constitution in Bengali, and an authentic text of an authorised translation in English, both of which shall be certified as such by the Speaker of the Constituent Assembly.

(3) A text certified in accordance with clause (2) shall be conclusive evidence of the provisions of this Constitution:

Provided that in the event of conflict between the Bengali and the English

text, the Bengali text shall prevail.

