

PARLIAMENT WATCH – BANGLADESH

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A Report on the Proceedings of the Ninth Parliament of Bangladesh

(Ninth Session)
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A short brief on the Ninth Session of the Ninth Parliament:

The Ninth session of the Ninth Parliament which commenced on 22nd May 2011 was prorogued on July 7 after 30 working days. The main opposition Bangladesh Nationalist Party (BNP) and its allies abstained from the House throughout the session. They boycotted on grounds of not having a 'congenial atmosphere' to join the Parliament. Until the Ninth session, BNP attended the Parliament for only 51 days out of 237 working days. It is widely agreed that Parliamentary Democracy is hampered due to the lack of participation of the main opposition in the National Parliament.

Apart from adopting the budget for 2011-2012 fiscal, the session passed 8 government bills, including the much-talked Constitution (15th amendment) Act, 2011 that marked a constitutional regime change.

A total of 49 hours 13 minutes were spent on budget discussions, 46 hours and 51 minutes on deliberations on the new budget and 2 hours 22 minutes on the supplementary budget. In the general discussion on the budget, 199 members from Awami League, 17 from JP, 3 from JSD, 2 from Workers Party, and one independent law maker took part in the discussion. During this session, a total of 490 notices under Rules 71 of the rules of procedure were received, of which 11 notices were accepted. Besides, during the half an hour question-answer session designated for the Prime Minister, 228 questions were received, of which 72 were responded to by her. From the Ministers, 3,926 questions were received and replies were given for 2,144 questions. The speaker in his brief rounding up speech called upon all members of the Parliament to sincerely contribute in making the parliament more lively and effective keeping themselves above all partisan views.

It should be noted that during this session a total of 19 bills were placed in the House during the Budget Session that opened on May 22 but only 8 bills were passed. The following are the bills that were passed in the Ninth Session¹ -

Sl. #	Name of the Acts	Accession date²
1.	Whistleblower's protection Act, 2011	22.06.2011
2.	Bangladesh Legal Parishioners and Bar Council (22.06.2011

¹ The Parliament Library Bulletin, issue # 69

² Register of Law section, Parliament Secretariat

	Amendment) Act, 2011	
3.	Appropriation (supplementary) Act, 2011	22.06.2011
4.	Tax Ombudsman (annulment) Act, 2011	22.06.2011
5.	Dhaka Elevated Expressway Project (Land Acquisition) Act,2011	30.06.2011
6.	Finance Act,2011	30.06.2011
7.	Appropriation Act, 2011	30.06.2011
8.	The constitution (Fifteenth Amendment) Act, 2011	03.07.2011

Analysis of Government and Private Members Bills passed in the Ninth Session:

On 22nd June, 2011 ***the Whistleblower's protection Act, 2011*** was passed in the Parliament. In the end of last September, 2010 a bill was placed in parliament on protecting the whistleblowers and encouraging them to disclose information to authorities concerned. The draft bill was making open for the public as it was tagged in the Law Ministry website for reviewing the feedback/opinion from the people of different strata.

The parliamentary standing committee on law, justice and parliamentary affairs ministry placed a scrutiny report of a bill in the Parliament and finalized the recommendation after nine months³. Bangladesh being a signatory of the UN convention Against Corruption, passed this Act.

The legislation will be used as an effective tool to ensure accountability. It should be noted that there is a provision for any person who discloses a whistleblower's identity, to be punished with a maximum five years' or minimum two years' imprisonment or with financial penalty. For this provision of security people may feel encouraged to report. Passing this law the RTI act will be strengthened and play a vital role to ensure transparency, accountability and good governance.

On the same day i.e. on 22nd June, 2011 Finance Minister AMA Muhith proposed for passage of the bill on ***Tax Ombudsman (annulment) Act, 2011*** in the House in an amended form. Introducing the bill, the finance minister said there are conflicting issues among the act, rules and tax-related laws framed for the tax ombudsman's office. As a result, the tax ombudsman's office became ineffective as there is no obligation for implementation of the recommendations

³ <http://www.thedailystar.net/newDesign/news-details.php?nid=155610>

under the Tax Ombudsman Act and Rules. There is confusion in the public minds about the effectiveness of the organization as there remains unclearness in the tax-related laws in implementation of the recommendations of the tax ombudsman. The organization has been turned into a costly and ineffective organization instead of removing misrule of the tax administration- the finance Minister said. For this reason, initiatives have been taken for annulment of the Tax Ombudsman Act, 2005.

Lone independent lawmaker Mohammad Fazlul Azim proposed for public opinion on the bill, sending it to the select committee and its amendment which were later rejected in voice votes.

On June 30, the Bangladesh Constitution the **15th Amendment Act-2011** was passed with a huge margin of 291 to 1 votes. With the passage of this bill the caretaker government (CTG) system was removed and the provision of general elections under political government was reintroduced.

Earlier in 2000, a petition was filed with the High Court (HC) challenging the legality of the CTG provision. Four years later, the HC declared the system legal but, in May this year, the Appellate Division of the Supreme Court (SC) declared it illegal as some provision of the 13th amendment is conflicting with the main principles of the constitution.

To enforce the verdict of the SC, the present government initiated the amendment, and the Special Parliamentary Committee on the constitutional amendment was formed on July 21,2010, where the main opposition, BNP had no representation- the main opposition party did not accept the membership to the committee given by the Government. The special parliamentary committee organized 27 meetings. Opinions from political parties and a group of experts and professionals were taken. But the committee finalized its report without incorporating all the recommendations given by them or explaining the reasons for the exclusions⁴ and placed the report to the cabinet on June 8 and on June 20 the cabinet approved the Constitution (Fifteenth Amendment) Bill-2011. The bill was sent to the concerned parliamentary standing committee for scrutiny and was sent back to the Parliament within two weeks.

⁴ The daily Jugantor, 01.07.2011

The Caretaker Government (CTG) system, which was introduced through the 13th Amendment, was the product of mistrust and disrespect among the political parties. As demanded by the main opposition Party which was AL at that time, the BNP government introduced the CTG bill on March 21 during the first session of the 6th parliament. Since then, Bangladesh has had three consecutive general elections under the non-party CTG. Although those elections received wide recognition and appreciation of observers from both home and abroad, none of the losing parties accepted the election results⁵.

Distrust between the main political parties was prevalent before the introduction of the CTG system, and is present even during the elections under CTG. The CTG system raised a controversy among the main political parties on the issue of appointment of the Chief Adviser of the CTG.

The 15th amendment goes against minorities.⁶ CHT commission submitted a letter to the Prime Minister stating that the constitution of Bangladesh should not include any religion as a state religion. Again, there is no provision to recognize the indigenous people but the amendment states that the people of Bangladesh shall be known as '*Bangalees*' as a nation and citizens of Bangladesh shall be known as Bangladeshis. In addition, the bill said the State religion of the Republic is Islam but the State shall ensure equal status and equal right in the practice of the Hindu, Buddhist, Christian and other religions.

The passage of the 15th Amendment bill dissolved the Caretaker Government (CTG) system, but it does not provide assurance of the absence of uncertainty from the political arena of the country. As per the new amendment, the Election Commission must be independent, stronger and more powerful to be able to hold free, fair and credible elections in a peaceful and democratic way. But this will be possible only if the political parties can build up mutual trust, respect and compromise among themselves. A dialogue with other political parties, especially with the main opposition parties was badly needed and the main opposition party should

⁵ In the 7th Parliamentary election (1996) AL won and BNP rejected the result, alleging "massive rigging." In the 8th Parliamentary election (2001), BNP won the election and AL dismissed the result, alleging "crude rigging." In the last general election under CTG in 2008, the AL-led grand alliance won the election but the result was rejected by BNP.

⁶ <http://www.thedailystar.net/newDesign/news-details.php?nid=194034>

respond to the invitation of the government to resolve the present crisis brought about by the 15th Amendment.

The 15th Amendment Act-2011 not only repealed the provisions of the Caretaker Government (CTG) system but added some articles which stated that the future parliament will have no power to amend some articles in the constitution as per new article 7B⁷ of the 15th amendment that will lead to create a "political crisis" in the country. After passing the Act the eminent citizens and some constitutional experts opined⁸ that *"the next parliamentary election must be held under a neutral caretaker government with the participation of BNP, otherwise the election would not be acceptable to the people"* (Barrister Rafiqul Haque).

Former Dhaka University vice chancellor Prof Emajuddin Ahmed said *around fifty articles of the 15th amendment are not acceptable, as these articles do not reflect the opinions of the mass people. He also said the 15th amendment to the constitution is passed like the fourth amendment that introduced one party rule in the country which was anti-democratic. The parliament cancelled the caretaker system "unilaterally and illegally" ignoring full directives of the Supreme Court, he said.*

Regarding the 15th Amendment Dr. Asif Nazrul opined that *a good constitutional amendment has to strengthen the protection of human rights, enhance good governance, ensure people's participation and provide enforceability to certain economic rights which the 15th amendment has largely failed to accomplish.*

Law Department teacher of Dhaka University (DU) Prof Borhan Uddin Khan said *one third of the constitution has been amended through the 15th amendment in "an ambiguous process" that restricts the way to further amendment.*

Issues of concern on Human Rights Violations:

Although human rights violations were not a frequently discussed issue in the Parliament, some positive measures have been incorporated in this Budget. A database relating to the Social Security Programme, a survey on persons with disability and plans to introduce one stop service

⁷ The present amendment of 7 B states that "the Preamble, all Articles of Part iii, subject to the provisions of part ix A, all Articles of Part iii and the provisions of articles relating to the basic structures of the Constitution including Article 150 of Part xi shall not be amendable....."

⁸ <http://www.thedailystar.net/newDesign/news-details.php?nid=195940>

for such persons with disability and setting up of day- care centers in Garment Factories were some positive initiatives for promoting the rights of the vulnerable groups⁹. Within the reporting period there have been incidents of human rights violations in different areas of Bangladesh. There are some issues were not discussed by the people's representatives (MPs) in Parliament but violates the human rights situation.

Extra Judicial Killing:

Despite taking measures to stop extra judicial killings it was reported that 13 people have been executed this way¹⁰ by law enforcement agencies between May and June, 2011.

Border Crisis

Human Rights violations caused by the Indian Border Security Force (BSF) in the border areas continued in 2011. The BSF allegedly killed 20 unarmed Bangladeshis between January and July, 2011. The BSF kills Bangladeshi nationals either by shooting or torturing them.¹¹

Few other incidents of human rights violations

- On May 1, 2011 three cases were filed against a few trade union leaders. The case was filed under sections 143/448/427/380/323/506 of the Penal Code. It is to be mentioned that the case was filed because the leaders expressed solidarity with the protesting hotel workers at a meeting¹².
- Violence against national minority women and children in the Chittagong Hill Tracts (CHT) continued unabated, with nine being victimized between July and October, according to national minority's rights watchdog Kapaeeng Foundation. Four of the victims had been killed, four had been raped and two children were molested¹³ But these issues were not discussed in the Parliament.
- In the first week of May, 2011 the Home ministry has asked the National Human Rights Commission not to go beyond its jurisdiction regarding the activities of the disciplined forces, especially police and RAB personnel. Sources said the ministry made the comments following NHRC's reactions regarding extrajudicial killings by law enforcers and the recent incident of maiming college student Limon during a RAB shooting.¹⁴

⁹ The Parliament Library Bulletin, issue # 69

¹⁰ Odhikar Report, May, 2011, Odhikar Report, June 2011, Odhikar Report July 2011

¹¹ Odhikar Report, May, 2011, Odhikar Report, June 2011, Odhikar Report July 2011

¹² Odhikar Report, May, 2011

¹³ Kapaeeng Foundation Report,

¹⁴ http://www.odhikar.org/documents/2011/English/HR_Report_May%202011_English.pdf

NHRC Chairman Prof Mizanur Rahman, who visited Limon in the hospital and demanded punishment to RAB members for shooting him, has asked the Police Superintendent of Jhalkathi to provide the commission with required papers about the incident. Following law enforcers' reluctance to take the case filed by Limon's mother against RAB members who allegedly shot him in the left leg which was amputated later, he said the commission itself would go for legal action if the police did not take the case.¹⁵

As the Act did not authorize NHRC to go for action on the allegations of human rights violations by the disciplined force or any of its members¹⁶, its chairman has repeatedly said the key concerns of the commission are extrajudicial killings and custodial deaths and torture.¹⁷

Sources said NHRC, which is still limping even after two years of its inception because of manpower shortage, and is now thinking of remaining 'silent' on Limon's case, fearing that coming into a conflict with the government may delay the process of getting its manpower.¹⁸ The NHRC insiders observed that measures should first be taken to make it fully functional and the only way to make it serviceable is to recruit its manpower. But the process is being delayed also because of bureaucracy. Creating disagreement with the government will only create obstructions on its way to smooth functioning.

For promoting transparency and accountability in the Parliament the Ruling party and the Opposition should be regularly present to make the session effective by providing constructive suggestions especially on proposed bills, addressing the rights of the common people and to accelerate the advances of parliamentary democracy. The opposition's role in making the parliament effective is equal to that of the governing party. It should be noted that incidents of human rights violation occurred despite of few initiatives taken by the Ruling party. But such initiatives should be stronger and sufficient to prevent the violation of Human Rights. These issues should be discussed among the major political parties to ensure the fundamental rights of people are guaranteed. Along with this, implementation mechanisms should be developed to

¹⁵ The daily Sun, 5 May,2011

¹⁶ The National Human Rights Commission Act, 2009

¹⁷ http://webcache.googleusercontent.com/search?q=cache:Vav87kkPODYJ:www.daily-sun.com/details_yes_05-05-2011_govt-asks-nhrc-not-to-go-beyond-jurisdiction_206_5_1_1_0.html+&cd=1&hl=bn&ct=clnk

¹⁸ http://webcache.googleusercontent.com/search?q=cache:Vav87kkPODYJ:www.daily-sun.com/details_yes_05-05-2011_govt-asks-nhrc-not-to-go-beyond-jurisdiction_206_5_1_1_0.html+&cd=1&hl=bn&ct=clnk

effectively implement the recommendations of the standing committees. There are no available statistics on how many recommendations have been implemented so far.