

# **PARLIAMENT WATCH – BANGLADESH**

**SEPTEMBER – DECEMBER 2010**



# **A Report on the Proceedings of the Ninth Parliament of Bangladesh**

(Sixth and Seventh Session)  
September - December 2010

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## **Background & Objective:**

The Sixth Session of the Ninth Parliament of Bangladesh started on 20<sup>th</sup> September, 2010 and continued for 11 days. In a short session from 5<sup>th</sup> December to 9<sup>th</sup> December the Parliament concluded its Seventh Session.

The objectives of SAHR's Parliament Watch are to examine the legislation enacted in relation to their implications on human rights of citizens, transparency and accountability of government, the parliamentary system and responsibilities of the executive in ensuring the rule of law and human rights.

## **Legislative process in the Sixth Session of the Ninth Parliament:**

A total of 13 Bills were passed in the Sixth session and no Private Members Bills were placed in the Parliament. Twenty four notices were accepted in the sixth session among which 18 were discussed and six lapsed.

Notable among the Acts passed during the session were the following:

*Real Estate Development and Management Act, 2010, Bangladesh Textile University Act, 2010, Bangladesh Environment Protection (Amendment) Act, 2010, Non government Primary Teacher Welfare Trust (Amendment) Act, 2010, Compulsory Use of Jute Products in label Act, 2010, Increase the Rapid Supply of Electricity and Fuel (Special Order) Act, 2010, The Foreign Expatriate Welfare Bank Act, 2010, Climate Change Trust Act, 2010, Domestic Violence (Prevention & Protection) Act, 2010, Local Government (Union Parishad) (Amendment), 2010, Mandatory Jute Packaging Act, 2010 and Non-Government Primary Teachers Welfare Trust (Amendment) Act, -2010.*

The National Education Policy 2010 was tabled during this session<sup>1</sup>. It was stated that the draft policy was made public through websites and that thousands of recommendations came from different groups including from those within the chief opposition party. Finally, the policy was approved by voice vote conducted by the honourable Speaker of the Parliament.

In the Sixth Session, a total of 32 hours and 36 minutes were spent on discussing different issues- on passing bills, notices and sharing the findings of Standing Committee reports. A significant number of MPs from Awami League, the Jatiyo Party, Workers' Party, JSD, LDP participated in the discussion, but

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<sup>1</sup> Parliament Library Bulletin, October- December, 2010

the major opposition party, the Bangladesh Nationalist Party (BNP), remained absent throughout the session.

#### **Legislative process in the Seventh session of the Ninth Parliament:**

A total of 4 Bills were passed in the Seventh Session of the Ninth Parliament. In the Seventh Session the Finance Minister presented the progress statement on income and expenditure for the 1<sup>st</sup> session 2010 July -2011 September). In the Seventh Session, a total of 15 hours and 22 minutes were spent on discussing different issues - on passing bills, notices and sharing the findings of Standing Committee reports. The major opposition party, the Bangladesh Nationalist Party (BNP) remained absent throughout the session.

#### **Participation of Women lawmakers in the Sixth & Seventh session of the Ninth Parliament:**

The participation of women lawmakers was significant throughout the Sixth and Seventh Sessions. Their attendance was high in comparison to Male Member of Parliament. Women Members participated in the discussion on the Rules 71 & 42 . They also participated in the law making process and the question and answer sessions. Although the women members of the opposition parties protested on the streets, they did not participate in the discussions in Parliament.

#### **Formation of Standing Committee and its Activities**

In the 6<sup>th</sup> and 7<sup>th</sup> Sessions of the 9<sup>th</sup> Parliament, about 156 Parliamentary Standing Committee meetings were held. Only two Standing Committees were reconstituted. Some Parliamentary Standing Committee reports were submitted.<sup>2</sup> The Standing Committee members including members from the Opposition Party participated in the Standing Committee Meetings even though they were absent in the Parliament.

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<sup>2</sup> Parliament Library Bulletin, October- December,2010

Sl. #	Name of the Month	Number Standing Committee Meetings	Number Sub-Standing Committee Meetings	Remarks
1.	September, 2010	39	10	
2.	October, 2010	44	13*	*Single Meeting was Adjourned
3.	November, 2010	40**	13	** Single Meeting was Adjourned
4.	December, 2010	33	06	
<b>Total</b>		<b>156</b>	<b>42</b>	

### **Analysis of Bills passed in the Sixth & Seventh Session of Ninth Session:**

The right to vote is a fundamental democratic right of citizens. To strengthen the voting rights of the people and to strengthen the Election Commission the following laws were enacted in the latter part of 2010.

*The Voter List Amendment Act, 2010* was one of them. According to the Act, any Bangladesh citizen living abroad will be given voting rights if he/she already has lived or he/she has or had an inherited residence in a certain constituency.

Besides, *Local Government (Pouroshava) (Amendment) Act, 2010* and *Local Government (Union Parishad) (Amendment) Act, 2010* focused on an equal distribution of population in a certain constituency. Ultimately these Acts emphasize on the citizens equal participation to ensure Democracy and the Rule of Law.

On 5<sup>th</sup> October, 2010 the Parliament passed the *Domestic Violence (Prevention and Protection) Act 2010*. It is a measure of how seriously the nation takes the issue of violence at home. Due to the male-dominated social structure in Bangladesh, violence in the household has been a sad feature of life for countless women and children. There was no legal remedy for the victims of mental and physical torture/violence.

Under the proposed Domestic Violence law, there was a provision for Protective Orders - “*The Court may, after giving the parties an opportunity of being heard, and on being prima facie satisfied that*

*domestic violence has taken place or is likely to take place, issue a protection order restraining the respondent from committing any act of domestic violence against the victim or protected person.”*

The act also states- if a person found violating the Protective order of the law will be sentenced to six months in jail or Tk 10,000 (Ten thousand) fine or both. In case of repetition the guilty person will be sentenced to two years in jail or Tk 100,000 (one lac) fine or both.

Anyone found guilty of filing a false case alleging violence will be sentenced to 1 year in jail or Tk 50,000 (Fifty thousand) fine or both. 89 other countries including India, Japan and South Korea have enacted laws to prevent domestic violence.

The Parliament on 8<sup>th</sup> December 2010 passed **the Border Guard Bangladesh Act, 2010** with provision for capital punishment for mutiny offences. It aims to build an efficient border-security force by reorganizing the mutiny-ridden BDR.<sup>3</sup>

As per the law, the paramilitary Bangladesh Rifles (BDR) will be renamed Border Guard Bangladesh (BGB). The bill was passed by voice vote as Home Minister Sahara Khatun proposed its enactment for the sake of speeding up the trial of BDR mutineers. On December 6<sup>th</sup>, the Parliamentary Standing Committee on the Home Ministry placed its report on `The Border Guard Bangladesh (BGB) Bill 2010.

The new law sets 13 types of punishment, including death sentence and life imprisonment. It will also empower the Additional Director-General level officers to try offenders. As per the Act, three types of Border Guard courts--Special Border Guard Court, Special Summary Border Guard Court and Summary Border Guard Court will be created for trying different offences. The Law empowers any Officer, Deputy Director-General, Director-General, Additional Director General, Regional Commander to award any punishment stipulated. There will also be an appeal body styled "Border Guard Appeal Tribunal" to which the convicted persons can appeal for reconsideration of the punishment awarded by the Border-Guard Courts.

But the convict, as per the new law, cannot appeal to any civilian courts, including the Supreme Court, against the verdicts of the Border-Guard courts or of the Border-Guard Appeal Tribunal which violates the constitutional and international norms of human rights.

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<sup>3</sup><http://www.banglanews24.com/English/detailsnews.php?nssl=524265e8b942930fbb8a5d979d29205&nttl=2010120810149>

***The Climate Change Trust Act, 2010*** was passed in the Parliament on 5<sup>th</sup> October 2010 to mitigate the adverse impacts of climate change in Bangladesh. The government has already allocated Tk 14 billion to build this fund for 2009-2010/2011. Earlier on August 24<sup>th</sup>, the Cabinet approved the Climate Change Trust Fund, which was registered under the Bengal Trust Act 1882.<sup>4</sup> The concerned Ministry has prepared and approved the Climate Change Strategy and Action Plan 2009 to face the adverse impacts of global climate change as Bangladesh is one of the most vulnerable countries to climate change and a significant portion of people of Bangladesh live in the coastal belt. So, passing the Climate Change Trust Act, 2010 will have a positive impact towards the vulnerable community of the country.

On 5<sup>th</sup> October, 2010 ***The Expatriate Welfare Bank Act, 2010*** was passed in Parliament. The Expatriate Welfare Bank will help unemployed youths to seek employment abroad, help find jobs for the expatriates upon their return to the country and encourage expatriate Bangladeshis to invest in the domestic market. After passing the bill the expatriate Bangladeshis could easily invest in domestic market and ultimately strengthen the economy of Bangladesh and people will get benefit from it.

The Parliament on 22 September, 2010 passed ***the Real Estate Development and Management Act 2010***, providing for mandatory enlistment of developers to do business and maximum three years of imprisonment if any developer violates approved construction design.<sup>5</sup>

Any developer who violates approved design of buildings will be penalized up to a maximum 2 million (equivalent 20 lakh BDT) or will have to face both imprisonment and penalty. Meanwhile, if any developer engages in real estate business without approval from authority concerned, and publishes advertisements in favour of his/her business, he/she will face maximum two years imprisonment or will be penalized up to a maximum 1 million (equivalent 10 lakh BDT), according to the Act. The Act will be known as Real Estate Development and Management Act, 2010 once it is cleared by President.

The developer, if he fails to handover the real estate within a prefixed time frame, will have to repay the entire amount within six months to the receiver (buyer) as per the agreement through account payee cheque. The real estate company will have to give at least a 60-day notice period before cancellation of a particular allocation if the buyer fails to pay the installment or full amount as per the agreement.

In the fourth chapter of the Act, it was mentioned that owner of the land would sign a Joint Venture Agreement with the developer, if the owner of the land wants to develop his/her land. Developer will

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<sup>4</sup> <http://gurumia.com/2010/02/28/bangladesh-climate-change-trust-fund-act-2010/>

<sup>5</sup> <http://www.unbconnect.com/component/news/task-show/id-30685>

have to complete finalization of deed, registration and hand over control of the real estate within maximum three months once total payment is done. Besides, the developers will have the right to change allotment of plots or flats but the developers will have to ensure the ‘go ahead’ signal from buyers.

The Real Estate Development and Management-2009 was drafted to discipline the fast-growing real estate sector and re-establish trust among the involved parties.

On 27 September, Two bills, *Bangladesh Environment Preservation (Amendment) Act, 2010* and the *Non-government Primary Teachers Welfare Trust (Amendment) Act, 2010*, were passed in the Parliament with provisions for imprisonment and fines for violation of the laws and degradation to environment and for the sake of welfare of the non-government primary teachers.<sup>6</sup>

The parliament also adopted *The Environment Court (Amendment) Act, 2010* for establishing Environment Courts in each district instead of each division. The bill also provides for expanding the jurisdiction of mobile courts led by special magistrates to deal with offences relating to the pollution of the environment and increasing the duration of punishment.<sup>7</sup>

**\*\*The list of Bills Passed in the 6<sup>th</sup> and 7<sup>th</sup> session are attached as Annex A**

#### **Human Rights Issues Addressed in the Parliament**

Though some Acts were passed addressing human rights issues, incidents of human rights violation were not discussed in the Parliament. The list of Acts addressing Human Rights and discouraging the promotion of Human Rights passed in the 6<sup>th</sup> and 7<sup>th</sup> Sessions are presented below.

<sup>6</sup> <http://www.highbeam.com/doc/1G1-238116707.html>

<sup>7</sup> <http://www.bangladoot.se/news%20items.htm>



**Bills Passed in the Ninth Parliament Addressing Human Rights (September, 2010 - December, 2010)**

Sl. #	Name of the Session	Total number of Bills (Approved)	Acts Addressing Human Rights	Acts discouraging to promote Human Rights	Other
1	6 <sup>th</sup> Session (20 September, 2010 - 06 October, 2010)	13	07	00	06
2	7 <sup>th</sup> Session* 05 December, 2010 – 09 December, 2010	04	01	01	02

In the 7<sup>th</sup> Session the Parliament passed **the Border Guard Bangladesh Act, 2010** with provision for capital punishment for mutiny offences.<sup>8</sup> Though the new law sets out 13 types of punishments, including the death sentence and life imprisonment, the convict cannot appeal to any civilian courts, including the Supreme Court, against the verdicts of the Border-Guard Courts or the Border-Guard appeal tribunal which violate the constitutional and international norms of human rights.

In addition, as per different news sources it was said that incidents of extra-judicial killings and torture while in police custody continued.<sup>9</sup> Besides, Border Security Force (BSF) killing<sup>10</sup>, Chittagong Hill Tracts (CHT) crisis, Minority rights violations<sup>11</sup>, clashes between RMG workers and the law enforcing agency and incidents of peoples disappearance<sup>12</sup> were another issue of concern. The Members of Parliament are the representatives of the people but these rights violations issues are not duly addressed or even discussed in the Parliament. Even then, the major Opposition could not raise the issue because they remained absent from Parliament for a long time.

Formulation of Laws and its implementation are equally important to promote Human Rights and Democracy and to establish the Rule of law.

<sup>8</sup> <http://www.banglanews24.com/English/detailsnews.php?nssl=524265e8b942930fbb8a5d979d29205&nttl=2010120810149>

<sup>9</sup> [http://www.thedailystar.net/newDesign/latest\\_news.php?nid=27820](http://www.thedailystar.net/newDesign/latest_news.php?nid=27820)

<sup>10</sup> <http://www.thedailystar.net/newDesign/news-details.php?nid=165499>

<sup>11</sup> Status of Minorities in Bangladesh, 2010, SAHR report

<sup>12</sup> <http://www.thedailystar.net/newDesign/news-details.php?nid=159753>

## Challenges

The major challenges facing the 9<sup>th</sup> parliament are as follows:

- Boycott of Parliament by the opposition party. The parliamentary process was hampered due to a continuous boycott by the major Opposition party.
- Quorum crisis

## Recommendations

To make the Parliament more effective in promoting accountable and transparent governance and in institutionalizing democracy in Bangladesh, the following recommendations should be considered.

### *To Make Parliament Effective*

- Mechanism should be developed to ensure the attendance of all MPs including Members of the Opposition.
- Access to media should be increased, particularly permission should be granted to private channels to cover proceedings.

### *Making the Parliamentary Committees Effective*

- Measures should be taken to implement most of the decisions of Parliamentary Standing Committees
- The Committee Meetings should be open and should encourage consultations with experts and citizen groups.

**List of Acts Passed in the 6<sup>th</sup> and 7<sup>th</sup> Parliament**

**Sixth Session of Ninth Parliament**

1. Real Estate Development and Management Act,2010
2. Bangladesh Textile University Act,2010
3. Bangladesh Environment Protection (Amendment)Act, 2010
4. Non government Primary Teacher Welfare Trust (Amendment) Act,2010
5. Local Government (Pouroshava) (Amendment) Act ,2010
6. Mandatory Jute Packaging Bill, 2010
7. Increase the Rapid Supply of Electricity and Fuel (Special Rule/Order) Act, 2010
8. The Foreign Expatriate Welfare Bank Act,2010
9. Environment Court Act,2010
10. Climate Change Trust Act, 2010
11. Domestic Violence (Prevention & Protection) Act, 2010
12. International Mother Language Institute Act,2010
13. Local Government (Union Parishad) (Amendment) Act , 2010

**Seventh Session of Ninth Parliament**

1. Bangladesh Medical & Dental Council Act,2010
2. Sand Quarry And Soil Management Act,2010
3. Border Guard Act,2010
4. Voter List (Amendment) Act,2010