

## APPENDIX A

### THE PROCLAMATION OF INDEPENDENCE

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

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

AND

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

AND

Whereas the assembly so summoned was arbitrarily and illegally postponed for an indefinite period,

AND

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

AND

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

AND

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

AND

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

AND

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

Bangladesh,

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

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

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

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

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

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

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

shall have power to levy taxes and expend monies,

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

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

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

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

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

Mujibnagar, Bangladesh  
10th April, 1971

Sd/ Prof. Yusuf Ali

Duly Constituted Potentiary by and  
under the authority of the Constituent  
Assembly of Bangladesh.

## APPENDIX B

### **LAWS CONTINUANCE ENFORCEMENT ORDER, 1971**

I, Syed Nazrul Islam, the Vice-President and Acting President of Bangladesh, in exercise of the powers conferred on me by the Proclamation of Independence dated tenth day of April, 1971 do hereby order that all laws that were in force in Bangladesh on 25<sup>th</sup> March, 1971, shall subject the Proclamation aforesaid continue to be so in force with such consequential changes as may be necessary on account of the creation of the sovereign independent State of Bangladesh formed by the will of the people of Bangladesh and that all Government officials, civil, military, judicial and diplomatic who take oath of allegiance to Bangladesh shall continue in their offices on terms and conditions of service so long enjoyed by them and that all District Judges and District Magistrates, in the territory of Bangladesh and all diplomatic representatives elsewhere shall arrange to administer the oath of allegiance to all government officials within their jurisdiction.

This order shall be deemed to have come into effect from 26<sup>th</sup> of March, 1971.

Sd: Syed Nazrul Islam  
Acting President

## APPENDIX C

# PROVISIONAL CONSTITUTION OF BANGLADESH ORDER, 1972

Whereas by the Proclamation of Independence Order dated the 10th April, 1971 provisional arrangements were made for the governance of the People's Republic of Bangladesh;

And Whereas by the said Proclamation the President is invested with all executive and legislative authority and the power to appoint a Prime Minister;

And Whereas the unjust and treacherous war as referred to in the said Proclamation has now ended;

And Whereas it is the manifest aspiration of the people of Bangladesh that a parliamentary democracy shall function in Bangladesh;

And Whereas in pursuance of the said objective it is necessary immediately to make certain provisions in that behalf.

Now, Therefore, in pursuance of the Proclamation of Independence Order dated the 10th April, 1971 and all other powers enabling him in that behalf the President is pleased to make and promulgate the following Order:

- (1) This Order may be called the Provisional Constitution of Bangladesh Order, 1972.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force at once.
- (4) Definition: "Constituent Assembly" referred to in this Order means the body comprising of the elected representatives of the people of Bangladesh returned to the N.A. and P.A. seats in the elections held in December, 1970, January, 1971 and March, 1971 not otherwise disqualified by or under any law.
- (5) There shall be a Cabinet of Ministers, with the Prime Minister at the head.

- (6) The President shall in exercise of all his functions act in accordance with the advice of the Prime Minister
- (7) The President shall commission as Prime Minister a member of the Constituent Assembly, who commands the confidence of the majority of the members of the Constituent Assembly. All other Ministers, Ministers of State and Deputy Ministers shall be appointed by the President on the advice of the Prime Minister.
- (8) In the event of a vacancy occurring in the office of the President at any time prior to the framing of the Constitution by the constituent Assembly, the Cabinet shall appoint as President a citizen of Bangladesh who will hold the office President until another President enters upon the office in accordance with the Constitution as framed by the Constituent Assembly.
- (9) There shall be a High Court of Bangladesh, consisting of a Chief Justice and so many other Judges as may be appointed from time to time.
- (10) The Chief Justice of the High Court of Bangladesh shall administer an oath of office to the President and the President shall administer an oath of office to the Prime Minister, other Ministers, Ministers of State and Deputy Ministers. The form of the oath shall be as prescribed by the Cabinet.

Dated this eleventh day of January, one thousand nine hundred and seventy two, being the twenty-sixth day of Poush, one thousand three hundred and seventy eight.

## APPENDIX D

# THE CONSTITUTION OF THE PEOPLE'S REPUBLIC OF BANGLADESH

<sup>1</sup>[Bismillah-Ar-Rahman-Ar-Rahm  
(In the name of Allah, the Beneficent, the Merciful)]

### PREAMBLE

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

<sup>3</sup>[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 the fundamental principles of the Constitution;]

Further pledging that it shall be a fundamental aim of the State to realise through the democratic process a 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.

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<sup>1</sup> The words, commas and brackets within brackets were inserted by the Proclamation amendment) Order, 1977

<sup>2</sup> Substituted *ibid*, for the words "a historic struggle for national liberation"

<sup>3</sup> Substituted *ibid*, for the second paragraph

## PART I THE REPUBLIC

1. *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 –

- (a) the territories which immediately before the proclamation of independence on the 26th day of March, 1971 constituted East Pakistan <sup>1</sup>[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]
- (b) such other territories as may become included in Bangladesh.

<sup>2</sup>[2A. *The state religion.* The state religion of the Republic is Islam, but other religions may be practised in peace and harmony in the Republic.]

3. *The state language.* The state language of the Republic is <sup>3</sup>[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 through out its area, resting on a green background.

(3) The national emblem of the Republic is the national flower *Shapla* (*nymphaea nouchali*) resting on water, having on each side an 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.

5. *The capital.* (1) The capital of the Republic is <sup>4</sup>[Dhaka].

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

<sup>5</sup>[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

<sup>1</sup> Substituted by the Act LXXIV of 1974, s. 3.

<sup>2</sup> Inserted by Act XXX of 1988

<sup>3</sup> Substituted by Act XXX of 1988

<sup>4</sup> Substituted *ibid*, for "Dacca"

<sup>5</sup> Substituted by Proclamation Order I of 1977

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 that other law shall, to the extent of the inconsistency, be void.

## PART II FUNDAMENTAL PRINCIPLES OF STATE POLICY

**8. Fundamental Principles.** <sup>1</sup>[(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.

<sup>2</sup>[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.]

**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 persons shall be guaranteed <sup>3</sup> \* \* \* <sup>4</sup>[, and in which effective participation by the people through their elected representatives in administration at all levels shall be ensured].

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<sup>1</sup> Clause (1) and (1A) of Art.8 was substituted for clause (1) by Proclamations Order I of 1977

<sup>2</sup> Articles 9 and 10 were substituted for articles 9 and 10, *ibid.*

<sup>3</sup> The comma and words “, and in which effective participation by the through their elected representatives in administration at all levels shall be ensured” were omitted by Act II of 1975, s.2

<sup>4</sup> The comma and words within square brackets were inserted by Act XXVIII of 1991, s.2 (w.e.f.18-9-91)

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**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 form -

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

- (a) the provision of the basic necessities of life, including food, clothing, shelter, education and medical care;
- (b) the right to work, that is the right to guaranteed employment at a reasonable wage having regard to the quantity and quality of work;
- (c) the right to reasonable rest, recreation and leisure; and
- (d) 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 an 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 -

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<sup>1</sup> Article 12 was omitted by the Proclamation Order No.I of 1977

- (a) 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;
- (b) relating education to the needs of society and producing properly trained and motivated citizens to serve those needs;
- (c) 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 among 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 of 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.

**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.** <sup>1</sup>[(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 principles shall -

- (a) strive for the renunciation of the use of force in international relations and for general and complete disarmament;
- (b) 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
- (c) support oppressed peoples throughout the world waging a just struggle against imperialism, colonialism or racialism.

<sup>2</sup>[(2) The State shall endeavour to consolidate, preserve and struggle against imperialism, colonialism or racialism. 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.

<sup>3</sup>[(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.

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<sup>1</sup> Article 25 was renumbered as clause (1) of that article by the Proclamation Order No. I of 1977

<sup>2</sup> Clause (2) was added by the Proclamation Order No. I of 1977

<sup>3</sup> Clause (3) was added by Act XXIV of 1973, s.2 (w.e.f. 15.7.73)

**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 citizens 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 -

- (a) 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;
- (b) giving effect to any law which makes provision for reserving appointments relating any religious or denominational institution to persons of that religion or denomination;
- (c) reserving for members of one sex any class of appointment or office on the ground that it is considered by its nature to be unsuited to members of the opposite sex.

<sup>1</sup>[**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 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

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<sup>1</sup> Substituted by Act XXX of 1988, s.5, for article 30.

deprived of life or personal liberty save in accordance with law.

<sup>1</sup>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 -

(a) who for the time being is an enemy alien; or

(b) 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:

Provided that the authority making any such order may refuse to disclose facts which such authority considers to be against the public interest to disclose.

(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 -

(a) by persons undergoing lawful punishment for a criminal offence; or

(b) required by any law for public purposes.

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<sup>1</sup> Substituted by Act XXIV of 1973, s.3, for the original article 33.

**35. Protection in respect of trial and punishment.** (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor shall 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 an offence shall be compelled to be a witness against himself.

(5) No person shall be subjected to torture or 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 or public 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:

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

(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 -

- (a) the right of every citizen to freedom of speech and expression; and
- (b) freedom of the press,

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<sup>1</sup> Proviso to article 38 was omitted by the Second Proclamation Order No. III of 1976

are guaranteed.

**40. Freedom of profession or occupation.** Subject to any restrictions imposed by law, any 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 -

(a) every citizen has the right to profess, practise or propagate any religion;

(b) 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. Right 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.

<sup>1</sup>[(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 requisition 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 -

(a) to be secured in his home against entry, search and seizure; and

(b) to the privacy of his correspondence and other means of communication.

<sup>2</sup>[**44. Enforcement of fundamental rights.**(1) The right to move the <sup>1</sup>[High

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<sup>1</sup> Clauses (2) and (3) were substituted for clause (2) by the Proclamation Order No. I of 1977

<sup>2</sup> Article 44 was substituted for the original article 44 by the Fourth Amendment and

Court Division] in accordance with <sup>2</sup>[clause (1)] of article 102, for the enforcement of the rights conferred by this Part is guaranteed.

(2) Without prejudice to the powers of the <sup>3</sup>[High Court Division] under article 102, Parliament may by law empower any other court, within the local limits of its jurisdiction, to exercise all or any of those powers.]

**45. Modification of rights in respect of disciplinary law.** 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 by 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 order in any area in Bangladesh or validate any sentence passed, punishment inflicted, forfeiture ordered, or other act done in any such area.

**47. Saving of 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 abridges, any of the rights guaranteed by this Part -

- (a) the compulsory acquisition, nationalisation or requisition of any property, or the control or management thereof whether temporarily or permanently;
- (b) the compulsory amalgamation of bodies carrying on commercial or other undertakings;
- (c) 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;
- (d) the extinction, modification, restriction or regulation of rights to search for or win minerals or mineral oil;
- (e) 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, of other

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again amended by the Proclamation Order No. I of 1977

<sup>1</sup> Substituted by the Second Proclamation Order No. I of 1977, for 'High Court' (w.e.f. 1.12.77)

<sup>2</sup> Substituted, *ibid*, for 'clause (2)'.

<sup>3</sup> Substituted by Second Proclamation Order No. I of 1977, for "High Court" (w.e.f. 1.12.77)

persons; or

- (f) 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 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:

<sup>1</sup>[Provided that nothing in this article shall prevent amendment, modification or repeal of any such law.]

<sup>2</sup>[(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.]

<sup>3</sup>[47A. *Inapplicability 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.]

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<sup>1</sup> Substituted by the Proclamation Order No.1 of 1977, for the original proviso.

<sup>2</sup> Clause (3) added by Act XV of 1973, s.2.

<sup>3</sup> Article 47 inserted, *ibid*, s.3

**PART IV**  
**THE EXECUTIVE**  
**<sup>1</sup>[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 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 -

- (a) is less than thirty-five years of age; or
- (b) is not qualified for election as a member of Parliament; or
- (c) 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.

**50. Terms 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 terms of office shall not be qualified for election as a member of Parliament, and if a member of Parliament is elected as

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<sup>1</sup> Chapters I, II and III were substituted by Act XXVIII of 1991, s.3 (w.e.f. 18.9.91)

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.

**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 Parliament and delivered to the Speaker, setting out the particulars of the charge, and the motion shall not be debated earlier than fourteen not 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 the 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 reference 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 on 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.

(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 vote until the board has been given an opportunity to 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 the 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 Ministers 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 rule for the allocation and transaction of the business of the government.

**56. Minister.** (1) There shall be a 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 Minister 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 maybe 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) or 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 continuing to be such members.

**57. Tenure of office of Prime Minister.** (1) The office of the Prime Minister shall become vacant -

(a) if he resigns from office at any time by placing his resignation in the hands of the President; or

(b) 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 in writing to dissolve Parliament, and if he so advises 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 -

(a) if he resigns from office by placing his resignation in the hands of

- the Prime Minister for submission to the President;
- (b) 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);
  - (c) if the President pursuant to the provisions of clause (2) so directs; or
  - (d) 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-clause (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 this Chapter, continue to hold office until his successor has entered upon office.

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

<sup>1</sup>[58A. *Application of Chapter.* Nothing in this Chapter, except the provisions 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.]

## <sup>2</sup>[CHAPTER IIA - NON-PARTY CARE-TAKER GOVERNMENT]

**58B.** *The 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.

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<sup>1</sup>Inserted by the Constitution (Thirteenth Amendment) Act, 1996, s.2

<sup>2</sup>New Chapter IIA inserted *ibid*, s.3

(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 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) The 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 is 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 Adviser, 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 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 -

- (a) qualified for election as members of Parliament;
- (b) not members of any political party or of any organisation associated with or affiliated to any political party;
- (c) not, and have agreed in writing not to be, candidates for the ensuing election of members of Parliament;
- (d) 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 with the aid and shall carry on the routine functions of such government with the aid and assistance of persons in the service of the Republic; and, except in the case of necessity for the discharge of such functions it 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 -

- (a) administration and the work of public officers;
- (b) the maintenance of public order;
- (c) 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.

**62. Recruitment, etc. of defence services.** (1) Parliament shall by law provide for regulating -

- (a) the raising and maintaining of the defence services of Bangladesh and of their reserves;
- (b) the grant of commissions therein;
- (c) the appointment of chiefs of staff of the defence services, and their salaries and allowances; and
- (d) 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.

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**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 s the President may determine.

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**PART V  
THE LEGISLATURE  
CHAPTER I - PAR LIAMENT**

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 members shall be designated as Members of Parliament.

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

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<sup>1</sup> Clauses (2) and (3) of article 63 were omitted by Act XXIV of 1973  
<sup>2</sup> Chapter VI was omitted by the Second Proclamation Order No. I of 11977 (w.e.f. 1.12.77) which was added by the Second Proclamation Order No. IV of 1976 (w.e.f. 13.8.77)  
<sup>3</sup> Substituted by Act XXXVIII of 1990; for clause (3)

meeting of the Parliament next after the Parliament in existence at the time of commencement of the Constitution (Tenth Amendment) Act, 1990, there shall be reserved thirty seats exclusively for women members, who shall be elected according to law by the members aforesaid:

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

✓(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 undischarged 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;<sup>1</sup>

<sup>2</sup>[(dd) holds any office of profit in the service of the Republic other than an office which is declared by law not to disqualify its holders; or

<sup>3</sup> \* \* \* \* \*

<sup>4</sup> \* \* \* \* \*

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

<sup>5</sup>[(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 <sup>6</sup>[he is a President, <sup>7</sup>\* Prime Minister], <sup>8</sup>\* \* Minister, Minister of State or Deputy Minister.]

<sup>9</sup> \* \* \* \* \*

<sup>1</sup> the word "or" was omitted by the Second Proclamation Order No.IV of 1978

<sup>2</sup> Sub-clause (dd) was inserted, *ibid*

<sup>3</sup> Sub-clause (e) was omitted by the Second Proclamation Order No.III of 1975

<sup>4</sup> Sub-clause (f) was omitted by Act II of 1975.

<sup>5</sup> Inserted by the Second Proclamation Order No.IV of 1978

<sup>6</sup> Substituted by Act XIV of 1981, s.3, for "he is a Prime Minister".

<sup>7</sup> The word and comma "Vice-President" were omitted by Act XXVIII of 1991, s.4 (w.e.f. 18.9.91)

<sup>8</sup> The words and comma "Deputy Prime Minister", were omitted, *ibid*.

<sup>9</sup> Clause (3) was omitted by Act II of 1975.

(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 <sup>1\*</sup> 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 <sup>2</sup>[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

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<sup>1</sup> The words "before Parliament" were omitted by Act II of 1975

<sup>2</sup> Substituted by Act XXX of 1988, s.6, for salaries.

taka to be recovered as a debt due to the Republic.

<sup>1</sup>[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 that 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, convene 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; and
- (c) the person elected shall not make or subscribe the oath or affirmation of a member of Parliament until the foregoing

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<sup>1</sup> Substituted by Act XXVIII of 1991, s.5 (w.e.f. 18.9.91)

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:

<sup>1</sup>[Provided that a period exceeding sixty days shall not intervene between the end of one session and the first meeting 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.

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(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 of 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

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<sup>1</sup> Substituted by Act XXVIII of 1991, s, 6(a)

<sup>2</sup> Clause (4A) was omitted, *ibid*, s.6(b), which was inserted by Act XXXVIII of 1989, s.9

President, or the receipt of a message from him, discuss the matter referred to in such address or message.

<sup>1</sup>[73A. *Right of Ministers as respects Parliament.* (1) Every Minister shall have the right to speak in, and otherwise take part in the proceedings of, Parliament, but shall not be entitled to vote <sup>2</sup>[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, <sup>3</sup>\* \* \*, 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 become 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 <sup>4</sup>[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 is also absent, such person as may be determined by or under the rules of procedure, shall act as Speaker.

<sup>1</sup> Inserted by Act II of 1975, s.9

<sup>2</sup> Words within bracket inserted by Act XXVIII of 1991, s.7(a)

<sup>3</sup> The words "Deputy Prime Minister" were omitted, *Ibid*, s.7(b)

<sup>4</sup> Substituted by Act II of 11975, s.10, for "exercising the functions of the"

(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 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)<sup>1</sup>\* \* \* Parliament shall appoint from among its members the following standing committees, that is to say -

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

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<sup>1</sup> The words "At its first meeting in each session" were omitted by Act II of 1975, s.11

(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 this 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.

(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 PROCEDURE

**80. Legislative procedure.** (1) Every proposal in Parliament for making a 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 <sup>1</sup>\* \* \* or, in the case of a Bill other than 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 <sup>2</sup>[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

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<sup>1</sup> The words "or declare that he withholds assent therefrom" were omitted by the Second Proclamation Order No.IV of 1978 which were inserted by Act II of 1975, s.2

<sup>2</sup> The words within square brackets were inserted by the Second Proclamation Order No.IV of 1978

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, that 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, nor 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 statements.** (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;  
1 \* \* \* \* \*
- (b) the remuneration payable to -
  - (i) the Speaker and Deputy Speaker;
  - (ii) the Judges of the<sup>2</sup>[Supreme Court];
  - (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<sup>3</sup>\* \* \*, the Comptroller and Auditor-General, the Election Commission and the Public Service Commissions;

<sup>1</sup> Clause (aa) was omitted by Act XXVIII of 1991, s.8 which was inserted by Act II of 1975

<sup>2</sup> The words "Supreme Court and High Court" were substituted by the Second Proclamation Order No.I of 1977

<sup>3</sup> The comma and the words "High Court" were omitted, *ibid*

- (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 of 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 met such expenditure.

<sup>1</sup>[(3) Notwithstanding anything contained in the foregoing provisions of 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,

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<sup>1</sup> Added by Act XXVIII of 1991, s.9

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 that year, pending the making of the grants and passing of the law.]

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### CHAPTER III - ORDINANCE MAKING POWER

**93. Ordinance making power.** (1) At any time when <sup>2</sup>[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 an 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 of articles 87, 89 and 90 shall, with necessary adaptations, be complied with in respect thereof within thirty days of the reconstitution of Parliament.

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<sup>1</sup> Article 92A was omitted, *ibid*.

<sup>2</sup> The words within square brackets were substituted for the words "Parliament is not in session" by the Proclamation Order No. I of 1977

Final

**PART VI  
THE JUDICIARY**

**<sup>1</sup>[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 Appellate 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 an advocate of the Supreme Court; or
- (b) has, for not less than ten years, held judicial office in the territory of Bangladesh; or
- (c) has such other qualifications as may be prescribed by law for appointment as a Judge of the Supreme court.

(3) In this article, "Supreme Court" includes a Court which at any time before the commencement of 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 <sup>2</sup>[sixty-five] 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

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<sup>1</sup> Chapter I was substituted by the Second Proclamation Order No.I of 1977 (w.e.f.1.12.1977), for Chapter I, IA and IB as amended by the Second Proclamation Order No.IV of 1976, to read as above.

<sup>2</sup> Substituted by Act I of 1986, for "sixty-two"

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 functions of the Council shall be -

- (a) to prescribe a Code of Conduct to be observed by the Judges; and
- (b) to inquire into the capacity or conduct of a Judge or of any other functionary who is not removable from office except in like manner as a Judge.

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

- (a) may have ceased to be capable of properly performing the functions of his office by reason of physical or mental incapacity, or
- (b) may have been guilty of gross misconduct, the President may direct the Council to inquire into the matter and report its finding.

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

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

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

**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 Judges of a division of the Supreme Court should be for the time being increased, the President may appoint one or more duly qualified persons 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 of profit in the service of the Republic not being a judicial or quasi-judicial office.

(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.

<sup>1</sup>**100. Seat of Supreme Court.** The permanent seat of the Supreme Court shall be in the capital, but sessions of the High Court Division may be held at such other place or places as the chief Justice may, with the approval of the President, from time to time appoint.

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<sup>1</sup> Original article 100 was amended by the Constitution (Eighth Amendment) Act, 1988 as follows -

“100. *Seat of the 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.”

The original article 100 revived as the amendment was held *ultra vires* by the Appellate Division in *Anwar Hossain v. Bangladesh*, 41 DLR (AD) 165.

**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 of the fundamental rights conferred by Part III of this Constitution.

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

- (a) on the application of any person aggrieved, make an order -
  - (i) directing a person performing any functions in connection with the affairs of the Republic or of a local authority to refrain from doing that which he is not permitted by law to do or to do that which he is required by law to do; or
  - (ii) declaring that any act done or proceeding taken by a person performing functions in connection with the affairs of the Republic or of a local authority has been done or taken without lawful authority and is of no legal effect; or
- (b) on the application of any person, make an order -
  - (i) directing that a person in custody be brought before it so that it may satisfy itself that he is not being held in custody without lawful authority or in an unlawful manner; or
  - (ii) requiring 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) Where on 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 opportunity of being heard, and the High Court Division is satisfied that the interim order would not have the effect referred to in sub-

clause (a) or sub-clause (b).

(5) In this article, unless the context otherwise requires, "person" includes a statutory public authority and any court or tribunal, other than a court or tribunal established under a law relating to the defence services of Bangladesh or any 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 <sup>1</sup>[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 from 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 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 processes 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 of 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.

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<sup>1</sup> Substituted by Act XXX of 1988, s.8, for "transportation".

**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 Judges are to constitute any Bench of a division of the Supreme Court <sup>1</sup>\* \* \* 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 Division shall have superintendence and control over all courts <sup>2</sup>[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 is 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 judgment 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 judgment.

**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

<sup>1</sup> The words, brackets and figures "or any Bench of a permanent Bench of the High court division referred to in clause (3) of article 100" inserted by Act XXX of 1988 was omitted in consequence of the amendment of article 100 being declared *ultra vires* by Appellate Division in *Anwar Hossain v. Bangladesh*, 41 DLR (AD) 165,

<sup>2</sup> The words "and tribunals" were inserted by Act. XXVIII of 1991, s.11

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 to the staff of the Supreme Court shall be made by the Chief Justice or such 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 <sup>1</sup>\* \* \* such courts subordinate thereto as may be established by law.

<sup>2</sup>[**115. *Appointments of 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 <sup>3</sup>[President] <sup>4</sup>[and shall be exercised by him in consultation with the Supreme Court.]

<sup>5</sup>[**116A. *Judicial officers to be independent in the exercise of their functions.*** Subject to the provisions of the Constitution, all persons employed in the judicial service and all magistrates shall be independent in the exercise of their judicial functions.]

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<sup>1</sup> The words "and the High Court" (as inserted by the Second Proclamation Order No.II of 1976) were omitted by the Second Proclamation Order No.I of 1977.

<sup>2</sup> Substituted by Act II of 1975

<sup>3</sup> Substituted, *ibid*, s.20 for "Supreme Court"

<sup>4</sup> The words within square brackets were inserted by the Second Proclamation Order No.IV of 1978.

<sup>5</sup> Art.116A was inserted by Act II of 1975, s.21

### CHAPTER III - ADMINISTRATIVE TRIBUNALS

**117. Administrative tribunals.** (1) Notwithstanding anything hereinbefore contained, Parliament may by law establish one or more administrative tribunals to exercise jurisdiction in respect of matters 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 punishments;
- (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;

<sup>1</sup>[(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 tribunal.

2 \* \* \* \* \*

### ~~\*\*\*~~ PART VII ELECTIONS

**118. Establishment of Election Commission.** (1) There shall be 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

<sup>1</sup> Substituted by Second Proclamation Order No.I of 1977

<sup>2</sup> Part VIA was omitted by the Proclamation dated 8.11.1975

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 <sup>1</sup>[Supreme Court].

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

**119. Functions of Election Commission.** <sup>2</sup>[(1) The superintendence, direction and control of the preparation of the electoral rolls for elections to the office of President and to Parliament and the conduct of such elections shall vest in the Election Commission which shall, in accordance with this 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.

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<sup>1</sup> Substituted by the Second Proclamation Order No. I of 1977, for "High Court".

<sup>2</sup> Substituted by Act XXVIII of 1991, s.12

**122. Qualifications for registration as voter.** (1) The elections <sup>1</sup>\* \* \* 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 for 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; <sup>2</sup>[and]
- (d) is or is deemed by law to be a resident of that constituency <sup>3</sup>[.]

<sup>4</sup> \* \* \* \* \*

<sup>5</sup> \* \* \* \* \*

**123. Time for holding elections.** <sup>6</sup>[(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 the 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.]

(3) A general election of members of Parliament shall be held -

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

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

<sup>1</sup> The words "to the offices of President and Vice-President and" were omitted, *ibid.*, s.13

<sup>2</sup> Added by the Second Proclamation Order No.III of 1975

<sup>3</sup> Substituted for "and", *ibid.*

<sup>4</sup> Sub-clause (e) omitted, *ibid.*

<sup>5</sup> Clause (3) omitted by Act XXVIII of 1991, s.13, which was added by Act II of 1975

<sup>6</sup> Clauses (1) and (2) were substituted for clause (1), (2), (2A) and (2B), *ibid.*, s.14(a).

of the term referred to therein.

(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 :

<sup>1</sup>[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.]

<sup>2</sup>[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 elections 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 called in question in any court;
- (b) no election to the <sup>3</sup>[office of President] 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.

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<sup>1</sup> Added by Act XXVIII of 1991, s.14(b)

<sup>2</sup> The article substituted, *ibid*

<sup>3</sup> The words "offices of President and Vice-President" were substituted for the words "office of 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 if 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 this article, hold office until he attains the age of sixty years.

(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 <sup>1</sup>[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 account.** The public accounts of

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<sup>1</sup> Substituted by the Second Proclamation Order No.I of 1977, for "High Court".

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 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 I - 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 persons 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 of such persons 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, 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.

## ✓ CHAPTER II - PUBLIC SERVICE COMMISSIONS ~~XXXX~~

**137. Establishment of commissions.** Provisions 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-two years, whichever is earlier.

(2) The chairman and other members of such a commission shall not be removed from office except in like manner and on the like grounds as a judge of the <sup>1</sup>[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,

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<sup>1</sup> Substituted by the Second Proclamation Order No. I of 1977, for "High Court".

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 and examinations for the selection of suitable persons for appointment to 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 branch of the service to another, and the suitability of candidates for such appointments, promotions and transfers;
- (c) matters affecting the terms and conditions (including pension 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 on 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 advice 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.

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<sup>1</sup>[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:

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<sup>3</sup>[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 the 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 the 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 incompetency, 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.

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<sup>1</sup> This Part was inserted by Act XXIV of 1973

<sup>2</sup> The proviso was omitted by Act II of 1975, s.28

<sup>3</sup> The proviso was added by Act XXVIII of 1991, s.17

**141C.** *Suspension of enforcement of fundamental rights during emergencies.* (1) While a Proclamation of Emergency is in operation, the President may, <sup>1</sup>[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 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 any provision of the Constitution.* <sup>2</sup>[(1) Notwithstanding anything contained in this Constitution –

(a) any provision thereof may be <sup>3</sup>[amended by way of addition, alteration, substitution or repeal] by Act of Parliament:

Provided that –

- (i) no Bill for such amendment <sup>4</sup>\* \* \* shall be allowed to proceed unless the long title thereof expressly states that it will amend <sup>5</sup>\* \* \* 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.

<sup>6</sup>[(1A) Notwithstanding anything contained in clause (1), when a Bill,

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<sup>1</sup> The words and comma “on the written advice of the Prime Minister, by order” were substituted for the words “by order” by Act XXVIII of 1991, s.18

<sup>2</sup> Article 142 was renumbered as clause (1) of that article by Act XXIV of 1973, s.7

<sup>3</sup> Substituted, *ibid* for the words “amended or repealed”

<sup>4</sup> The words “or repealed” were omitted, *ibid*

<sup>5</sup> The words “or repealed” omitted, *ibid*

<sup>6</sup> Clauses (1A), (1B) and 1(C) were inserted by the Second Proclamation Order No.IV of 1978

passed as aforesaid, which provides for the amendment of the Preamble or any provisions of articles 8, 48<sup>1</sup>[or] 56<sup>2\*</sup> \* \* 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 persons enrolled on the electoral roll prepared for the purpose of election to<sup>3</sup>[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.]

<sup>4</sup>[(1D) Nothing in clause (1C) shall be deemed to be an expression of confidence or no-confidence in the Cabinet or Parliament.]

<sup>5</sup>[(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

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<sup>1</sup> Substituted by Act XXVIII of 1991, s.19(a), for the comma

<sup>2</sup> The commas and figures “, 58, 80, 92A” were omitted, *ibid*

<sup>3</sup> Substituted by Act XXVIII of 1991, s.19(b), for the words “the office of President”.

<sup>4</sup> Clause (1D) was inserted, *ibid*, s, 19(c)

<sup>5</sup> Clause (2) was added by Act XXIV of 1973

determination of the boundaries of the territory of Bangladesh and of the territorial waters and continental shelf of Bangladesh.

**144. *Executive authority in relation to property, trade, etc.*** The executive authority of 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 that 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.

<sup>1</sup>[**145A. *International treaties.*** All treaties with foreign countries shall be submitted to the President, who shall cause them to be laid before Parliament:

<sup>2</sup>[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 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,

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<sup>1</sup> Article 145A was inserted by the Second Proclamation Order No.IV of 1978

<sup>2</sup> Substituted by Act XXVIII of 1991, s.20 for the former proviso.

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;

<sup>1</sup> \* \* \* \* \*

<sup>2</sup>[(b) Prime Minister <sup>3</sup>\* \* \*]

(c) Speaker or Deputy Speaker;

(d) Minister, Minister of State or Deputy Minister;

(e) Judge of the supreme Court;

<sup>4</sup> \* \* \* \* \*

(f) Comptroller and Auditor-General;

(g) Election commissioner;

(h) Member of a public service commission.

<sup>5</sup>[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.

<sup>6</sup> \* \* \* \* \*

(2) Where under this Constitution an oath is required to be administered by a specified person <sup>7</sup>\* \* \*, it may be administered by such other person and at such place as may be designated by that person.

(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

<sup>1</sup> Sub-clause (aa) was omitted by Act XXVIII of 1991, s.21(a), which was inserted by Act II of 1975, s.29

<sup>2</sup> Substituted by the Second Proclamation Order No.IV of 1978, for sub-clause (b)

<sup>3</sup> The words "or Deputy Prime Minister" were omitted by Act XXVIII of 1991, s.21(b)

<sup>4</sup> Sub-clause (ee) omitted by Second Proclamation Order No.I of 1977 which was inserted by the Second Proclamation Order No.IV of 1976

<sup>5</sup> See Proclamation dated 20.8.75

<sup>6</sup> Clause (1A) omitted by Act XXVIII of 1991, s.22, which was inserted by Act XXXVIII of 1989, s.15

<sup>7</sup> The words "and for any reason it is impracticable for the oath to be made before that person" omitted by Act II of 1975

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.** (10 In this Constitution, except where the subject or context otherwise requires -

“administrative unit” means a district or other area designated by law for the purposes of article 59;

“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;

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

“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;

“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 discipline 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;

“High Court Division” means the High Court Division of the Supreme Court;

“judge” means a judge of a division of the Supreme Court;

“judicial service” means a service comprising persons 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 a 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;  
“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.

1 \* \* \* \* \*

- (2) The General Clause 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

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<sup>1</sup> The expression “Vice-President” omitted by Act XXVIII of 1991, s.16, which was added by Act XXXVIII of 1989

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.

## FIRST SCHEDULE

[Article 47]

### *Laws effective notwithstanding other provisions*

The State Acquisition and Tenancy Act, 1950 (E.B. Act XXVIII of 1951)

The Bangladesh (Taking over of Control and Management of Industrial and Commercial Concerns Order, 1972 (A.P.O. No.1 of 1972)

<sup>1</sup> \* \* \* \* \*

<sup>2</sup>The Government of Bangladesh (Services) Order, 1972 (P.O. No.9 of 1972)

The Bangladesh Shipping Corporation Order, 1972 (P.O. No.10 of 1972)

The Bangladesh (Restoration of Evacuee Property) Order, 1972 (P.O. No.13 of 1972)

<sup>3</sup>The Bangladesh Public Servants' (Retirement) Order, 1972 (P.O. No. 14 of 1972)

The Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (P.O. No. 16 of 1972)

The Bangladesh Bank (Nationalisation) Order, 1972 (P.O. No.26 of 1972)

The Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P.O. No.27 of 1972)

The Bangladesh Inland Water Transport Corporation Order, 1972 (P.O. No.28 of 1972)

The Bangladesh (Vesting of Property and Assets) Order, 1972 (P.O. No.29 of 1972)

The Bangladesh Insurance (Emergency Provisions) Order, 1972 (P.O. No.30 of 1972)

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<sup>1</sup> The entry "The Bangladesh Collaborators (Special Tribunal) Order, 1972 (P.O. No.8 of 1972)" omitted by the Second Proclamation Order no.III of 1975

<sup>2</sup> Repealed by Ordinance No.XLVI of 1975

<sup>3</sup> Repealed by Ordinance No.XXVI of 1973

<sup>1</sup>The Bangladesh Consumer Supplies Corporation Order, 1972 (P.O. No.47 of 1972)

<sup>2</sup>The Bangladesh Scheduled Offences (Special Tribunals) Order, 1972 (P.O. No.50 of 1972)

<sup>3</sup>The Bangladesh Nationalised and Private Organisations (Regulation of Salary of Employees) Order, 1972 (P.O. No.54 of 1972)

<sup>4</sup>The Bangladesh Jute Export Corporation Order, 1972 (P.O. No.57 of 1972)  
The Bangladesh Water and Power Development Boards Order, 1972 (P.O. No.59 of 1972)

<sup>5</sup>The Government of Bangladesh (Services Screening) Order, 1972 (P.O. No.67 of 1972)

<sup>6</sup>The Bangladesh Government Hats and Bazars (Management) Order, 1972 (P.O. No.73 of 1972)

<sup>7</sup>The Bangladesh Government and Semi-autonomous Organisations (Regulation of Salary of Employees) Order, 1972 (P.O. No.79 of 1972)

The Bangladesh Insurance (Nationalisation) Order, 1972 (P.O. No.95 of 1972)

The Bangladesh Land Holding (Limitation) Order, 1972 (P.O. No. 98 of 1972)

<sup>8</sup>The Bangladesh Biman Order, 1972 (P.O. No.126 of 1972)

The Bangladesh Bank Order, 1972 (P.O. No.127 of 1972)

The Bangladesh Shilpa Rin Sangstha Order, 1972 (P.O. No.128 of 1972)

The Bangladesh Shilpa Bank Order, 1972 (P.O. No.129 of 1972)

And all Presidential Orders and other existing law effecting amendments to the above-mentioned Act and Orders.

**SECOND SCHEDULE.** - [*Omitted by the Constitution (Fourth Amendment) Act, 1975 (Act II of 1975, s.31)*]

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<sup>1</sup> Repealed by Act III of 1981

<sup>2</sup> Repealed by Act XIV of 1974

<sup>3</sup> Repealed by Ordinance No.XLII of 1977

<sup>4</sup> Repealed by Ordinance No.XXX of 1985

<sup>5</sup> Repealed by Ordinance No.XV of 1977

<sup>6</sup> Repealed by Ordinance No.LIX of 1975

<sup>7</sup> Repealed by Ordinance No.XLII of 1977

<sup>8</sup> Repealed by Ordinance No.XIX of 1977

## THIRD SCHEDULE

[Article 148]

## OATHS AND AFFIRMATIONS

**1. The President.** - An oath (or affirmation) in the following form shall be administered by the <sup>1</sup>[Chief Justice] -

“I, ....., do solemnly swear (or affirm) that I will faithfully discharge the duties of the office of President of Bangladesh according to law:

That I will bear true faith and allegiance to Bangladesh:

That I will preserve, protect and defend the Constitution:

And that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.”

<sup>2</sup> \* \* \* \* \*

<sup>3</sup>[**1A. The President in the case of performing the functions of the Chief Adviser.**- Oaths (or affirmations) in the following forms shall be administered by the Chief Justice-

(a) *Oath (or affirmation) of office:*

“I .....do solemnly swear (or Affirm) that I will faithfully discharge the duties of the office of Chief Adviser of the Non-Party Care-taker government according to law:

That I will bear true faith and allegiance to Bangladesh:

That I will preserve, protect and defend the constitution:

And that I will do right to all manner of people according to law , without fear or favour, affection or ill-will”.

(b) *Oath (or affirmation) of secrecy:*

“I ..... do solemnly swear (or Affirm) that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as Chief Adviser of the Non-Party Care-taker government except as may be required for the due discharge of my duty as Chief Adviser.]

**2. The Prime Minister <sup>4</sup>\* \* \* and other Ministers, Ministers of State and Deputy Ministers.**- Oaths (or affirmations) in the following forms shall

<sup>1</sup> Substituted for the words “Chief Justice of the Supreme Court” by the Second Proclamation Order No.I of 1977

<sup>2</sup> Form 1A omitted by Act XXVIII of 1991, s.24(a), which was inserted by Act II of 1975

<sup>3</sup> Form 1A Was inserted by the Constitution (Thirteenth Amendment) Act, 1996 (Act I of 1996), s.9(1)

<sup>4</sup> The words “Deputy Prime Minister” omitted, *ibid*

be administered by the President -

(a) *Oath (or affirmation) of office :*

“I, ....., do solemnly swear (or affirm) that I will faithfully discharge the duties of the office of Prime Minister (or as the case may be) according to law:

That I will bear true faith and allegiance to Bangladesh:

That I will preserve, protect and defend the Constitution:

And that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.”

(b) *Oath (or affirmation) of secrecy :*

“I, ....., do solemnly swear (or affirm) that I will not directly or indirectly communicate or reveal to any person any matter which will be brought under my consideration or shall become known to me as Prime Minister (or as the case may be) except as may be required for the due discharge of my duty as Prime Minister (or as the case may be).”

<sup>1</sup>[2A. **The Chief Adviser and Advisers.-** Oaths (affirmations) in the following forms shall be administered by the President-

(a) *Oath (or affirmation) of office:*

“I ..... do solemnly swear ( or affirm) that I will faithfully discharge the duties of the office of Chief Adviser (or Adviser) of the Non-Party Care-taker Government, according to law;

That I will bear true faith and allegiance to Bangladesh;

That I will preserve, protect and defend the Constitution;

That I will do right to all manner of people according to law, without fear or favour, affection or ill-will.”

(b) *Oath (or affirmation) of secrecy:*

I ..... do solemnly swear (or affirm) I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as Chief Adviser (or Adviser) of the Non-Party Care-taker Government, except as may be required for the due discharge of my duty as Chief Adviser (or Adviser).”.]

**3. The speaker.-** An oath (or affirmation) in the following form shall be administered by the <sup>2</sup>[President]-

“I, ....., do solemnly swear (or affirm) that I will faithfully discharge the duties of the Speaker of Parliament and (whenever I am called upon so to do) of the President, according to law:

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<sup>1</sup> Form 2A was inserted by the Constitution (Thirteenth Amendment) Act, 1996 (Act I of 1996), s.9(2)

<sup>2</sup> Substituted for the words “Chief Justice” by Act II of 1975, s.32

That I will bear true faith and allegiance to Bangladesh:  
 That I will preserve, protect and defend the Constitution:  
 And that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.”

**4. Deputy Speaker.** - An oath (or affirmation) in the following form shall be administered by the <sup>1</sup>[President] -

“I, ....., do solemnly swear (or affirm) that I will faithfully discharge the duties of Deputy Speaker of Parliament and (whenever I am called upon so to do) of the Speaker, according to law:

That I will bear true faith and allegiance to Bangladesh:

That I will preserve, protect and defend the Constitution:

And that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.”

**5. Member of Parliament.**- An oath (or affirmation) in the following form shall be administered <sup>2</sup>\* \* \* by the Speaker -

“I, ....., having been elected a member of Parliament do solemnly swear (or affirm) that I will faithfully discharge the duties upon which I am about to enter according to law:

That I will bear true faith and allegiance to Bangladesh:

And that I will not allow my personal interest to influence the discharge of my duties as a member of Parliament.”

<sup>3</sup>**[6. Chief Justice or Judges.**- An oath (or affirmation) in the following form shall be administered, in the case of the Chief Justice by the President, and in the case of a Judge appointed to a division, by the Chief Justice -

“I, ....., having been appointed Chief Justice of Bangladesh (or Judge of the Appellate/High Court Division of the Supreme Court) do solemnly swear (or affirm) that I will faithfully discharge the duties of my office according to law:

That I will bear true faith and allegiance to Bangladesh:

That I will preserve, protect and defend the Constitution and the laws of Bangladesh :

And that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.”]

**7. Chief Election Commissioner or Election Commissioners.**- An oath (or affirmation) in the following form shall be administered by the <sup>4</sup>{Chief

<sup>1</sup> Ibid

<sup>2</sup> The words “at a meeting of Parliament” were omitted, *ibid*

<sup>3</sup> Substituted by the Second Proclamation Order No. I of 1977

<sup>4</sup> Substituted by the Second Proclamation Order No. I of 1977, for the words “Chief

Justice] -

“I, ..... having been appointed Chief Election Commissioner (or Election Commissioner), do solemnly swear (or affirm) that I will faithfully discharge the duties of my office according to law:

That I will bear true faith and allegiance to Bangladesh:

That I will preserve, protect and defend the Constitution:

And that I will not allow my personal interest to influence my official conduct or my official decisions.”

**8. Comptroller and Auditor-General.**- An oath (or affirmation) in the following form shall be administered by the <sup>1</sup>[Chief Justice]-

“I, ..... having been appointed Comptroller and Auditor-General do solemnly swear (or affirm) that I will faithfully discharge the duties of my office according to law:

That I will bear true faith and allegiance to Bangladesh:

That I will preserve, protect and defend the Constitution:

And that I will not allow my personal interest to influence my official conduct or my official decisions.”

**9. Member of Public Service Commission.**- An oath (or affirmation) in the following form shall be administered by the <sup>2</sup>[Chief Justice]-

“I, ..... having been appointed Chairman (or Member) of a Public Service Commission do solemnly swear (or affirm) that I will faithfully discharge the duties of my office according to law:

That I will bear true faith and allegiance to Bangladesh:

That I will preserve, protect and defend the Constitution:

And that I will not allow my personal interest to influence my official conduct or my official decisions.”

## FOURTH SCHEDULE

(Article 150)

### TRANSITIONAL AND TEMPORARY PROVISIONS

**1. Dissolution of Constituent Assembly.** Upon the commencement of this Constitution, the Constituent Assembly, having discharged its responsibility of framing a Constitution for the Republic, shall stand dissolved.

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Justice of the High Court”.

<sup>1</sup> Ibid

<sup>2</sup> Ibid

**2. First elections.** (1) The first general election of members of Parliament shall be held as soon as possible after the commencement of this Constitution and for this purpose the electoral rolls prepared under Bangladesh Electoral Rolls Order, 1972 (P.O. No. 104 of 1972) shall be deemed to be the electoral rolls prepared in accordance with article 119.

(2) For the purpose of the first general election of members of Parliament, the delimitation of constituencies made for the purpose of elections to constitute the erstwhile Provincial Assembly, and published in 1970, shall be deemed to be made under article 119, and the Election Commission shall, after incorporating such changes, as it may consider necessary, in the nomenclature of any constituency or any subdivision or thana included therein, publish, by public notification, the list of such constituencies:

Provided that provision may be made by law to give effect to the provisions relating to seats for women members referred to in clause (3) of article 65.

**3. Provisions for maintaining continuity and interim arrangement.** (1) All laws made or purported to have been made in the period between the 26th day of March, 1971 and the commencement of this Constitution, all powers exercised and all things done during that period, under authority derived or purported to have been derived from the Proclamation of Independence or any law, are hereby ratified and confirmed and are declared to have been made, exercised and done according to law.

(2) Until the day upon which Parliament first meets pursuant to the provision of this Constitution, the executive and legislative powers of the Republic (including the power of the President, on the advice of the Prime Minister, to legislate by order) shall, notwithstanding the repeal of the Provisional Constitution of Bangladesh Order, 1972, be exercised in all respects in the manner in which, immediately before the commencement of this Constitution, they have been exercised.

(3) Any provision of this Constitution enabling or requiring Parliament to legislate shall, until the day upon which Parliament first meets as aforesaid, be construed as enabling the President to legislate by order, and any order made under this paragraph shall have effect as if the provisions thereof had been enacted by Parliament.

<sup>1</sup>[3A. *Validation of certain Proclamations, etc.* (1) The Proclamations of the 20th August, 1975, and 8th November, 1975, and the Third Proclamation of the 29th November, 1976, and all other Proclamations and Orders amending or supplementing them, hereinafter in this paragraph collectively referred to as the said Proclamations, and all Marital Law Regulations, Martial Law Orders

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<sup>1</sup> Inserted by Proclamation Order No. I of 1977

and all other laws made during the period between the 15th day of August, 1975 and the date of revocation of the said Proclamations and the withdrawal of Martial Law (both days inclusive), hereinafter in this paragraph referred to as the said period, shall be deemed to have been validly made and shall not be called in question in or before any Court or Tribunal on any ground whatsoever.

(2) All orders made, acts and things done, and actions and proceedings taken, or purported to have been made, done or taken by the President or the Chief Martial Law Administrator or by any other person or authority during the said period, in exercise or purported exercise of the powers derived from any of the said Proclamations or any Martial Law Regulation or Martial Law Order or any other law, or in execution of or in compliance with any order made or sentence passed by any Court or authority in the exercise or purported exercise of such powers, shall be deemed to have been validly made, done or taken and shall not be called in question in or before any Court or Tribunal on any ground whatsoever.

(3) No suit, prosecution or other legal proceeding shall lie in any court or Tribunal against any person or authority for or on account of or in respect of any order made, act or thing done, or action or proceeding taken whether in the exercise or purported exercise of the powers referred to in sub-paragraph (2) or in execution of or in compliance with orders made or sentences passed in exercise or purported exercise of such powers.

(4) All amendments, additions, modifications, substitutions and omissions made in this Constitution by the said Proclamations shall have effect as if such amendments, additions, modifications, substitutions and omissions were made in accordance with, and in compliance with the requirements of, this Constitution.

(5) Upon the revocation of the said Proclamations and the withdrawal of Martial Law this Constitution shall, subject to amendments, additions, modifications, substitutions and omissions as aforesaid, have effect and operate as if it had been in continuous operation.

(6) The revocation of the said Proclamations and withdrawal of Martial Law shall not revive or restore any right or privilege which was not existing at the time of such revocation and withdrawal.

(7) All laws in force immediately before the revocation of the said Proclamations and withdrawal of Martial Law shall, subject to the Proclamation revoking the said Proclamations and withdrawing the Martial Law, continue in force until altered, amended or repealed by the competent authority.

<sup>1</sup>[(8) The General Clauses Act, 1897, shall apply to the said Proclamations and the Martial Law Regulations and Martial Law Orders made during the said period and also to the revocation of the said Proclamations and the withdrawal of Martial Law and the repeal of the said Martial Law Regulations and Martial Law Orders as it applies to, and to the repeal of, an Act of Parliament as if the said Proclamations and the Proclamation revoking them and withdrawing the Martial Law Regulations and Martial Law Orders were all Acts of Parliament.

(9) In the event of any conflict, contradiction, discrepancy or inconsistency between the Bengali and the English text of the Constitution, in so far as it relates to any amendment, addition, modification, substitution or omission made in any of the texts or in both the texts by the said Proclamations, the English text shall prevail.

(10) In this paragraph, 'law' includes Ordinances, rules, regulations, bye-laws, orders, notifications and other instruments having the force of law.]

**4. President.** (1) The person holding office as President of Bangladesh immediately before the commencement of this Constitution shall hold office as President, as if elected to that office under this Constitution, until a person elected as President under article 48 enters upon office:

Provided that the holding of office under this paragraph shall not be taken into account for the purposes of clause (2) of article 50.

(2) The persons holding office as Speaker and Deputy Speaker of the Constituent Assembly immediately before the commencement of this Constitution shall, notwithstanding that Parliament has not yet been constituted, be deemed to hold office respectively as Speaker and Deputy Speaker until an election to each of those offices is made under clause (1) of article 74.

**5. Prime Minister and other Ministers.** The person holding office as Prime Minister, immediately before the date of the commencement of this Constitution shall, until his successor appointed under article 56 after the first general election held under this Constitution enters upon office, hold office as Prime Minister as if appointed to that office under this Constitution, and the persons holding offices as Ministers immediately before that date shall continue to hold office as Ministers until the Prime Minister otherwise directs, and nothing in article 56 shall prevent the appointment of other Ministers on the advice of the Prime Minister.

**6. Judiciary.** (1) The person holding office as Chief Justice immediately before the date of the commencement of this Constitution and every person

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<sup>1</sup> Sub-paragraphs (8), (9) and (1) were substituted for the former sub-paragraphs (8) and (9) by the Second Proclamation Order No.IV of 1978

who then held office as judge of the High Court constituted by the Provisional Constitution of Bangladesh Order, 1972, shall as from that date hold office as if appointed under article 95 as Chief Justice or, as the case may be, as judge.

(2) The persons (other than the Chief Justice) holding office as judges pursuant to sub-paragraph (1) if this paragraph shall at the commencement of this Constitution be deemed to have been appointed to the High Court Division, and appointments to the Appellate Division shall be made in accordance with article 94.

(3) All legal proceedings pending in the High Court immediately before the commencement of this Constitution (other than those referred to in sub-paragraph (4) of this paragraph) shall be transferred to, and be deemed to be pending before the High Court Division for determination, and any judgment or order of the High Court delivered or made before the commencement of this Constitution shall have the same force and effect as if it had been delivered or made by the High Court Division.

(4) All legal proceedings pending before the Appellate Division of the High Court immediately before the commencement of this Constitution shall be transferred to the Appellate Division for determination and any judgment or order of the former division delivered or made before the commencement of this Constitution shall have the same force and effect as if it had been delivered or made by the Appellate Division.

(5) Subject to the provisions of this Constitution and any other law -

- (a) all original, appellate and other jurisdiction which was vested in the High Court constituted by the Provisional Constitution of Bangladesh Order, 1972 (other than jurisdiction vested in the Appellate Division of that Court) shall from the commencement of this Constitution, vest in and exercised by the High Court Division;
- (b) all civil, criminal and revenue courts and tribunals exercising jurisdiction and functions immediately before the commencement of this Constitution shall continue to exercise their respective jurisdictions and functions, and all persons holding office in such courts and tribunals shall continue to hold their respective offices.

(6) The provisions of Chapter II of Part VI (which relate to subordinate courts) shall be implemented as soon as is practicable, and until such implementation the matters provided for in that Chapter shall (subject to any other provision made by law) be regulated in the manner in which they were regulated immediately before the commencement of this Constitution.

(7) Nothing in this paragraph shall affect the operation of any existing law relating to the abatement of proceedings.

<sup>1</sup>[6A. *Provisions as to existing Judges and pending proceedings.* (1) The person holding office of Chief Justice of Bangladesh immediately before the commencement of the Second Proclamation (Seventh amendment) Order, 1976 (hereinafter referred to as the said Order), and every person who then held office as Judge or additional Judge of the Appellate Division of the Supreme Court shall as from such commencement hold office as Chief Justice, Judge and Additional Judge of the Supreme Court, as the case may be, on the same terms and conditions as to remuneration and other privileges as were applicable to him immediately before such commencement.

(2) A person holding office as Judge or Additional Judge of the High Court Division of the Supreme court immediately before the commencement of the said Order shall as from such commencement hold office as Judge or Additional Judge of the High Court as the case may be, on the same terms and conditions as to remuneration and other privileges as were applicable to him immediately before such commencement.

(3) All legal proceedings pending before the Appellate division of the Supreme Court immediately before the commencement of the said Order shall on such commencement stand transferred to and be deemed to be pending before, the Supreme Court for determination; and any judgment, or order of the Appellate Division of the supreme Court delivered or made before such commencement shall have the same force and effect as if it had been delivered and made by the Supreme Court.

(4) All legal proceedings pending before the High Court Division of the Supreme Court immediately before the commencement of the said Order shall on such commencement stand transferred to, and deemed to be pending before, the High Court for determination; and any judgment or order of the High Court Division delivered or made before such commencement shall have the same force and effect as if it had been delivered or made by the High Court.

(5) Subject to the other provisions of this Constitution, the Supreme Court shall have the same functions, jurisdiction and posers as were, immediately before the commencement of the same Order, exercisable by the Appellate Division of the Supreme Court, and references in any law, legal instrument or other document to the appellate Division of the Supreme Court shall, unless the context otherwise requires, be construed as references to the Supreme Court.

(6) Subject to the other provisions of this Constitution, the High Court shall have the same functions, jurisdiction and powers as were, immediately before the commencement of the said Order, exercisable by the High Court Division of the Supreme Court, and references in any law, legal instrument and

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<sup>1</sup> Inserted by the Second Proclamation Order No.IV of 1976 (w.e.f. 18.8.1976)

other document to the High Court Division of the Supreme Court shall, unless the context otherwise requires, be construed as references to the High Court.]

<sup>1</sup>[6B. *Provisions as to Judges of the Supreme Court and High Court existing before the Second Proclamation Order No.I of 1977, proceedings pending before commencement of that Order, etc.* (1) A person holding office as Chief Justice or Judge or Additional Judge of the Supreme Court or chief Justice or Judge or Additional Judge of the High Court immediately before the commencement of the Second Proclamation (Tenth Amendment) Order No.I of 1977 (hereinafter referred to as the said Order), shall, if he has attained the age of sixty-two years on the date of such commencement, stand retired on that date.

(2) A person holding office as Chief Justice or Judge or Additional Judge of the Supreme Court immediately before the commencement of the said Order shall, if he has not attained the age of sixty-two years on the date of such commencement, as from such commencement hold office as Chief Justice of Bangladesh or Judge or Additional Judge of the Appellate Division as the case may be, on the same terms and conditions as to remuneration and other privileges as were applicable to him immediately before such commencement.

(3) The person holding office as Chief Justice of the High Court immediately before the commencement of the said Order shall, if he has not attained the age of sixty-two years on the date of such commencement, as from such commencement hold office as Judge of the High Court Division on the same terms and conditions as to remuneration and other privileges as were applicable to him immediately before such commencement.

(4) A person holding office as Judge or Additional Judge of the High Court immediately before the commencement of the said Order shall, if he has not attained the age of sixty-two years on the date of such commencement, as from such commencement hold office as Judge or Additional Judge of the High Court Division, as the case may be, on the same terms and conditions as to remuneration and other privileges as were applicable to him immediately before such commencement.

(5) All legal proceedings pending before the Supreme Court immediately before the commencement of the said Order shall on such commencement stand transferred to, and be deemed to be pending before, the Appellate Division for determination; and any judgment or order of the Supreme Court delivered or made before such commencement shall have the same force and effect as if it had been delivered or made by the Appellate Division.

(6) All legal proceedings pending before the High Court immediately

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<sup>1</sup> Inserted by the Second Proclamation Order No. I of 1977 (w.e.f. 1.12.1977)

before the commencement of the said Order shall on such commencement stand transferred to, and deemed to be pending before the High Court Division for determination; and any judgment or order of the High Court delivered or made before such commencement shall have the same force and effect as it had been delivered or made by the High Court Division.

(7) Subject to the other provisions of this Constitution, the Appellate Division shall have the same functions, jurisdiction and powers as were, immediately before the commencement of the said Order, exercisable by the Supreme Court, and references in any law, legal instrument or other document to the Supreme Court shall, unless the context otherwise requires, be construed as references to the Appellate Division.

(8) Subject to the other provisions of this Constitution, the High Court Division shall have the same functions, jurisdiction and powers as were, immediately before the commencement of the said Order, exercisable by the High Court, and reference in any law, legal instrument or other document to the High Court shall, unless the context otherwise requires, be construed as reference to the High Court Division.

(9) the person holding office as Advocate-General immediately before the commencement of the said Order shall on such commencement cease to hold that office.]

**7. *Interim rights of appeal.*** An appeal to the appellate Division shall lie, notwithstanding any limitation as to time, against any judgment, decree, order or sentence delivered, issued or pronounced since the 1st day of March, 1971 by any High Court (but excluding the Appellate division constituted by the High Court of Bangladesh (Amendment) Order (P.O. No.91 of 1972) functioning in the territory of Bangladesh:

Provided that article 103 shall apply in respect of any such appeal as it applies in respect of appeals from the High Court Division:

Provided further that no appeal under this article shall be lodged after the expiration of the period of ninety days from the commencement of this Constitution.

**8. *Election Commission.*** (1) The Election Commission existing immediately before the date of commencement of this Constitution, shall, as from that date, be deemed to be the Election Commission established by this Constitution.

(2) The person holding office as Chief Election Commissioner, and every person holding office as Election Commissioner, immediately before the date of the commencement of this Constitution, shall, as from that date, hold office as if appointed to such office under this Constitution.

**9. *Public Service Commission.*** (1) The public service commissions

existing immediately before the date of the commencement of this Constitution, shall, as from that date, be deemed to be Public service commissions established under this Constitution.

(2) Every person holding office as chairman or other member of a public service commission immediately before the date of the commencement of this Constitution shall as from that date hold office as if appointed to that office under this Constitution.

**10. Public service.** (1) Subject to this Constitution and to any other law-

- (a) any person who immediately before the commencement of this Constitution was in the service of the Republic shall continue in that service on the same terms and conditions as were applicable to him immediately before such commencement;
- (b) all authorities and all officers, judicial, executive and ministerial throughout Bangladesh exercising functions immediately before the commencement of this Constitution, shall, as from such commencement, continue to exercise their respective functions.

(2) Nothing in sub-paragraph (1) of this paragraph shall -

- (a) derogate from the continued operation of the Government of Bangladesh (Services) Order, 1972 (P.O. No.9 of 1972), or the Government of Bangladesh (Services Screening) Order, 1972 (P.O. No. 67 of 1972); or
- (b) prevent the making of any law varying or revoking the conditions of service (including remuneration, leave, pension rights and rights relating to disciplinary matters) of person employed at any time before the commencement of this Constitution or of persons continuing in the service of the Republic under the provisions of the paragraph.

**11. Oaths for continuance in office.** Any person who, under this Schedule, is continued in an office in respect of which a form of oath or affirmation is set out in the Third Schedule shall, as soon as practicable after the commencement of this Constitution, make and subscribe before the appropriate person an oath or affirmation in that form.

<sup>1</sup> \* \* \* \* \*

**13. Taxation.** All taxes and fees imposed under any law in force in Bangladesh immediately before the commencement of this Constitution shall continue to be imposed but may be varied or abolished by law.

**14. Interim financial arrangements.** Unless Parliament otherwise resolves,

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<sup>1</sup> Paragraph 12 omitted by Act II of 1975, s.33

the provisions of articles 87, 89, 90 and 91 of this Constitution shall not have effect in respect of the financial year current at the commencement of this Constitution, and expenditure defrayed during that year out of the Consolidated Fund or the Public Account of the Republic shall be deemed to have been validly incurred:

Provided that the President shall, as soon as is practicable, cause a statement of all such expenditure, authenticated by his signature, to be laid before Parliament.

**15. *Audit of past accounts.*** The powers of the Comptroller and Auditor-General under this Constitution shall apply in respect of all accounts relating to the financial year current at the commencement of this Constitution and to earlier years, and the reports of the Comptroller and Auditor-General relating to such accounts shall be submitted to the President who shall cause them to be laid before Parliament.

**16. *Property, assets, rights, liabilities and obligations of the Government.***

(1) All property, assets and rights which immediately before the commencement of this Constitution were vested in the government of the People's Republic of Bangladesh or any person or authority on its behalf shall vest in the Republic.

(2) All liabilities and obligations of the government of the Republic as they existed immediately before the commencement of this Constitution shall continue to be the liabilities and obligations of the Republic.

(3) No liability or obligation of any other government which at any time functioned in the territory of Bangladesh is or shall be a liability or obligation of the Republic unless it is expressly accepted by the Government of the Republic.

**17. *Adaptation of laws and removal of difficulties.*** (1) For the purpose of bringing the provisions of any law in force in Bangladesh into conformity with this Constitution the President may, within the period of two years from the commencement of this Constitution, by order, amend or suspend the operation of such provisions and any order so made may have retrospective effect.

(2) The President may, for the purpose of removing any difficulties in relation to the transition from the provisional constitutional arrangements existing before the commencement of this Constitution to the arrangements under this Constitution, by order direct that this Constitution shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as he may deem necessary or expedient:

Provided that no such order shall be made after the first meeting of the Parliament constituted under this Constitution.

(3) Every order made under this paragraph shall have effect notwithstanding any other provision of this Constitution, shall be laid before Parliament, and may be amended or revoked by Act of Parliament.

<sup>1</sup>[18. *Ratification and confirmation of Proclamations, etc.* All Proclamations, Proclamation Orders, Martial Law Regulations, Martial Law Orders and other laws made during the period between the 15th August, 1975, and the 9th April, 1979 (both days inclusive), all amendments, additions, modifications, substitutions and omissions made in this Constitution during the said period by any such Proclamation, all orders made, acts and things done, and actions and proceedings taken, or purported to have been made, done or taken, by any person or authority during the said period in exercise of the powers derived or purported to have been derived from any such Proclamation, Martial Law Regulation, Martial Law Order or any other law, or in execution of or in compliance with any order made or sentence passed by any court, tribunal or authority in the exercise or purported exercise of such powers, are hereby ratified and confirmed and are declared to have been validly made, done or taken and shall not be called in question in or before any court, tribunal or authority on any ground whatsoever.]

<sup>2</sup>[19. *Ratification and confirmation of the Proclamation of the 24th March, 1982, etc.* (1) The Proclamation of the 24th March, 1982, hereinafter in this paragraph referred to as the said Proclamation, and all other Proclamations, Proclamation Orders, Chief Martial Law Administrator's Orders, Martial Law Regulations, Martial Law Orders, Martial Law Instructions, Ordinances and all other laws made during the period between the 24th March, 1982, and the date of commencement of the Constitution (Seventh Amendment) Act, 1986 (Act I of 1986) (both days inclusive), hereinafter in this paragraph referred to as the said period, are hereby ratified and confirmed and declared to have been validly made and shall not be called in question in or before any court, tribunal or authority on any ground whatsoever.

(2) All orders made, acts and things done, and actions and proceedings taken, or purported to have been made, done or taken, by the President or the Chief Martial Law Administrator or by any other person or authority during the said period, in exercise or purported exercise of the powers derived from the said Proclamation or from any other Proclamation, Proclamation Order, Chief Martial Law Administrator's Order, Martial Law Regulation, Martial Law Order, Martial Law Instruction, Ordinance or any other Law, or in execution of or in compliance with any order made or sentence passed by any court, tribunal

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<sup>1</sup> Paragraph 18 added by the Constitution (Fifth Amendment) Act, 1979

<sup>2</sup> Paragraph 19 added by the Constitution (Seventh Amendment) Act, 1986

or authority in the exercise or purported exercise of such powers, shall be deemed to have been validly made, done or taken and shall not be called in question in or before any court, tribunal or authority on any ground whatsoever.

(3) No suit, prosecution or other legal proceeding shall lie in any court or tribunal against any person or authority for or on account of or in respect of any order made, act or thing done, or action or proceedings taken whether in exercise or purported exercise of the powers referred to in sub-paragraph (2) or in execution of or in compliance with orders made or sentences passed in exercise or purported exercise of such powers.

(4) All appointments made, during the said period to any office mentioned in the Third Schedule shall be deemed to have been validly made and shall not be called in question in or before any court, tribunal or authority on any ground whatsoever, and any person appointed under the said Proclamation to any such office during the said period and holding such office immediately before the date of commencement of the Constitution (Seventh Amendment) Act, 1986 (Act I of 1986), hereinafter in this paragraph referred to as the said Act shall, as from that date hold such office as if appointed to that office under this Constitution; and shall as soon as practicable after that date, make and subscribe before the appropriate person an oath or affirmation in the form set out in the Third Schedule.

(5) All appointments made by the Chief Martial Law Administrator during the said period to any office or post which is continuing after the date of commencement of the said Act shall, as from that date, be deemed to be appointments made by the President.

(6) All Ordinances and other laws in force immediately before the date of commencement of the said Act shall, subject to the Proclamation revoking the said Proclamation and withdrawing the Martial Law, continue in force until altered, amended or repealed by competent authority.

(7) Upon the revocation of the said Proclamation and withdrawal of Martial Law, this Constitution shall stand fully revived and restored and shall, subject to the provisions of this paragraph, have effect and operate as if it had never been suspended.

(8) The revocation of the said Proclamation and withdrawal of Martial Law shall not revive or restore any right or privilege which was not existing at the time of such revocation and withdrawal.

(9) The General Clauses Act, 1897, shall apply to the said Proclamation, and all other Proclamations, Proclamation Orders, Chief Martial Law Administrator's Orders, Martial Law Regulations, Martial Law Orders and Martial Law Instructions made during the said period and also to the revocation of the said Proclamation and other Proclamations and the repeal of the said Proclamation Orders, Chief Martial Law Administrator's Orders, Martial Law

Regulations, Martial Law Orders and Martial Law Instructions as it applies to, and to the repeal of, an Act of Parliament as if the said Proclamation, and other Proclamations, Proclamation Orders, Chief Martial Law Administrator's Orders, Martial Law Regulations, Martial Law Orders and Martial Law Instructions and the Proclamation revoking the said Proclamation were all Acts of Parliament.

(10) In this paragraph, "law" includes rules, regulations, bye-laws, orders, notifications and other instruments having the force of law.]

<sup>1</sup>[**21. Ratification and confirmation of the appointment of Vice-President, etc.** (1) The appointment of, and the administration of oath to the Chief Justice of Bangladesh as Vice-President on the 21st day of Agrahayan, 1397 B.S. corresponding to the 6th day of December, 1990, and the resignation tendered to him by the then President and all powers exercised, all laws and Ordinances made and all orders, acts and things done, and actions taken, or purported to have been made, done or taken by the said Vice-President acting as President during the period between the 21st day of Agrahayan, 1397 B.S. corresponding to the 6th day of December, 1990, and the date of commencement of the Constitution (Eleventh Amendment) Act, 1991 (Act No.XXIV of 1991) (both days inclusive) or till the new President elected under article 48(1) of the Constitution has entered upon his office (whichever is later), are hereby ratified and confirmed and declared to have been validly made, administered, tendered, exercised, done and taken according to law.

(2) The said Vice-President shall, after the commencement of the Constitution (Eleventh Amendment) Act, 1991 (Act No.XXIV of 1991), and after the new President elected under this Constitution has entered upon his office, be eligible to resume the duties and responsibilities of the Chief Justice of Bangladesh and the period between the 21st day of Agrahayan, 1397 B.S. corresponding to the 6th day of December, 1990 and the date on which he resumes such duties and responsibilities shall be deemed to be the period of actual service within the meaning of section 2(a) of the Supreme Court Judges (Leave, Pension and Privileges) Ordinance, 1982 (Ordinance No.XX of 1982).]

<sup>2</sup>[**22.** Notwithstanding anything contained in the Constitution, the Parliament functioning immediately before the commencement of the Constitution (Twelfth Amendment) Act, 1991 (Act 28 of 1991) shall be deemed to have been duly elected and constituted in accordance with the Constitution and Law and shall continue to function under the provisions of article 72 of the Constitution.]

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<sup>1</sup> Paragraph 21 added by Act XXIV of 1991

<sup>2</sup> Paragraph 22 added by Act XXVIII of 1991

## **APPENDIX E**

# **UNITED NATIONS UNIVERSAL DECLARATION OF HUMAN RIGHTS**

### **PREAMBLE**

Whereas recognition of the inherent human dignity and of the equal and inalienable rights of all the members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which the human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standard of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore, the General Assembly proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind,

shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

**Article 1.** – All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

**Article 2.** – Everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

**Article 3.** – Everyone has the right to life, liberty and security of persons.

**Article 4.** – No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

**Article 5.** – No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

**Article 6.** – Everyone has the right to recognition everywhere as a person before the law.

**Article 7.** – All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

**Article 8.** – Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or the law.

**Article 9.** – No one shall be subjected to arbitrary arrest, detention or exile.

**Article 10.** – Everyone is entitled to full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

**Article 11.** – (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

**Article 12.** – No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has a right to the protection of the law against such interference or attacks.

**Article 13.** – (1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

**Article 14.** – (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

**Article 15.** – (1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

**Article 16.** – (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

**Article 17.** – (1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

**Article 18.** – Everyone has the right to freedom of thought and conscience and religion, this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

**Article 19.** – Everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**Article 20.** – (1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

**Article 21.** – (1) Everyone has the right to take part in the Government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of Government, this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

**Article 22.** – Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

**Article 23.** – (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protect against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

**Article 24.** – Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

**Article 25.** – (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

**Article 26.** – (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial and religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

**Article 27.** – (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

**Article 28.** – Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

**Article 29.** – (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others

and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

*Article 30.* – Nothing in this Declaration may be interpreted as implying for any State, group or persons any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

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