LECTURE 13

CONSTITUTIONAL AMENDMENTS AND POLITICAL DEVELOPMENT SINCE 1991

Introduction

1. Three alliances were formed in the mid-1980s to generate popular and political movements against the Ershad regime. These were eight party alliance led by Bangladesh Awami League, seven party alliance led by BNP and the 'leftist' five party alliance. In November 1990 the three alliances announced a joint declaration specifying the modalities for the transfer of power:

    a. Opposition parties and alliances would not only boycott but also resist all elections under Ershad.

    b. Ershad must resign and hand over power to a caretaker government.

    c. The caretaker government would restore the credibility of the electoral system and assure franchise rights to all citizens.

    d. The interim government would hand over power to a 'sovereign' parliament elected through free and fair elections.

2. Combined movement of these alliances compelled Ershad to stepped down on 06 December 1990.

3. Justice Shahabuddin Ahmed, the then Chief Justice, was first appointed Vice President and as Ershad resigned Justice Shahabuddin became the Acting President and head of the neutral caretaker government. Subsequently, 17 Advisers of the caretaker government were appointed. It may be mentioned that the neutral caretaker government of 1990 was constituted without any prior constitutional amendments. Thus, all measures taken by the caretaker government were subsequently ratified in 1991 by the elected Fifth Jatiya Sangsad.

4. Also to be noted that Justice Ahmed agreed to head the caretaker government on the condition that he be allowed to return to the Supreme Court as Chief Justice after the election of a new President.

The Fifth Parliamentary Election

5. Fifth parliamentary elections under Justice Shahabuddin Ahmed were held on 27 February 1991 in which BNP won 140 out of 300 directly elected seats. Awami League, Jatiya Party and Jamaat E Islami got 88, 35 and 18 seats respectively. BNP formed the government with the support of some smaller parties.

Eleventh Amendment Act

6. This Act was passed on 6 August 1991. It amended the Fourth Schedule to the constitution by adding a new paragraph 21 thereto which legalised the appointment and oath of Shahabuddin Ahmed, Chief Justice of Bangladesh, as the Vice President of the Republic on 6 December 1990.

7. This Act ratified, confirmed and validated all powers exercised, all laws and ordinances promulgated, all orders made and acts and things done, and actions and proceedings taken by the Vice President as acting President during the period between 6 December 1990 and the day he left office.

8. The Act also confirmed and made possible of the return of Vice President Shahabuddin Ahmed to his previous position of the Chief Justice of Bangladesh.

Twelfth Amendment Act

9. This Amendment Act, known as one of the most important landmark in the history of constitutional development in Bangladesh, was passed on 6 August 1991. It amended Articles 48, 55, 56, 57, 58, 59, 60, 70, 72, 109, 119, 124, 141A and 142.

10. Through this amendment:

a. The parliamentary form of government was re-introduced in Bangladesh.

b. The President became the constitutional head of the state.

c. The Prime Minister became the executive head.

d. The cabinet headed by the Prime Minister became responsible to the Jatiya Sangsad.

e. The post of the Vice President was abolished.

f. The President was required to be elected by the members of the Jatiya Sangshad.

Demand for Caretaker Government

11. The 5-year term of office of BNP government was supposed to end in November 1995. Top level AL leaders decided to launch movement on the issue of polls under interim administration. Accordingly, Awami League Chief Sheikh Hasina in a public meeting held on November 20, 1993 said any future election under party in power would not be free and fair. So, a movement started, demanding election under caretaker government.

The Sixth General Election - February 1996

12. Amidst general strikes called by opposition parties that continued for 96 days, general elections were held in Bangladesh on 15 February 1996. Elections were boycotted by most opposition parties. The result was a victory for the Bangladesh Nationalist Party, which won 278 of the 300 elected seats.

Thirteenth Amendment Act

13. The Constitution (Thirteenth Amendment) Act 1996 was passed on 28 March 1996. It provided for a non-party Caretaker Government which, acting as an interim government, would give all possible aid and assistance to the Election Commission for holding the general elections of the Jatiya Sangsad peacefully, fairly and impartially.

14. The non-party caretaker government, comprising the Chief Adviser and not more than 10 other advisers, would be collectively responsible to the President and would stand dissolved on the date on which the Prime Minister enters his/her his office after the formation of the new Sangshad.

The Seventh General Election - June 1996

15. Seventh General elections were held in Bangladesh on 12 June 1996. The result was a victory for the Bangladesh Awami League, which won 146 of the 300 seats, beginning Sheikh Hasina's first-term as Prime Minister.

The Eight General Elections 2001

16. General elections were held on 1 October 2001 under the caretaker government, led by Mr Latif-ur-Rahman. The four-party alliance led by BNP bagged absolute majority.

The Constitution (Fourteenth Amendment) Act 2004

17. This act was passed on 16 May 2004 providing, among others, the following provisions:

a. Increase in the number of reserve seats for women in the Jatiya Sangshad from 30 to 45 for the following ten years.

b. Increase in the retirement age of Supreme Court judges from 65 to 67 years.

c. Displaying of portraits of the President and the Prime Minister at the offices of the President and the Prime Minister, and the Prime Minister's portrait in all government, semi-government and autonomous offices and diplomatic missions abroad were made mandatory.

Political Crisis of 2006 to 2008

18. A political crisis began at the end of 2006 as a caretaker government assumed power following the end of term of the four party alliance led by Bangladesh Nationalist Party. BNP government increased the age of chief justice retirement to get Justice KM Hasan head of the caretaker government which Awami League opposed.

19. Political conflict took a severe turn when President Dr. Iajuddin Ahmed declared himself as the head of the Caretaker Government following the refusal of Justice KM Hasan to head the Caretaker Government.

20. On 11 January 2007 the military intervened. President Iajuddin, declared a state of emergency. He accepted the resignations of most of his advisors. He also resigned as Chief Advisor, being replaced by Fakhruddin Ahmed. The government suppressed political activity to try to restore stability. At one point of time both Sheikh Hasina and Begum Khaleda Zia were arrested. However, they were released on bail later on.

The Ninth General Elections

21. Towards the end of 2008, the caretaker government moved to restore democratic government and held elections in December. The Awami League and the Grand Alliance won by a two-thirds majority, and formed a government in 2009.

Fifteenth Amendment Act

22. The Constitution (Fifteenth Amendment) Act 2011 was passed on 25 June 2011 and provided for:

a. Restored secularism and freedom of religion.

b. Reestablished nationalism, socialism, democracy and secularism as the fundamental principles of the state policy.

c. The Constitution now also acknowledges the Bangabandhu Sheikh Mujibur Rahman, the Architect of Independent Bangladesh as the Father of the Nation.

d. The Amendment scrapped the system of Caretaker Government.

e. It increased the number of women reserve seats to 50 from existing 45.

f. Inserted Articles 7(a) and 7(b) in the Constitution after Article 7 in a bid to end takeover of power through extra-constitutional means.

Tenth General Election - 2014

23. Tenth General Elections were held on 05 January 2014. Bangladesh Awami League (AL) and its allies, led by Prime Minister Sheikh Hasina, bagged a total of 245 seats out of 300. The elections were boycotted by an 18-party opposition alliance, led by the Bangladesh Nationalist Party (BNP). The Jatiya Party led by Hussain Mohammad Ershad got 34 seats.

Eleventh General Elections - 2018

24. Eleventh General elections were held in Bangladesh on 30 December 2018. The result was a landslide victory for the Awami League led by Sheikh Hasina.

Sixteenth amendment

25. 16th amendment of the constitution was passed by the parliament on 22nd September 2014, which gave power to the Jatiyo Sangshad to remove judges if allegations of incapability or misconduct against them are proved. On 5 May 2016, the Supreme Court of Bangladesh declared the 16th Amendment illegal and contradictory to the Constitution.

Seventeenth Amendment

26. 17th amendment of the constitution passed by the parliament on 8th July 2018 increased the tenure of 50 women parliamentarians who are elected in the women reserved seat to 25 years.