

Politics behind the Passage of Fourteenth Amendment to Bangladesh Constitution: A Politico Legal Analysis

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Abstract

BNP led four-party alliance came into power with a landslide victory in October, 2001 parliamentary polls. This four-party alliance government became unpopular within a short period owing to her misdeeds, corruption, terrorism and Islamic fundamentalism etc. Under such condition government as of her electoral pledge brought changes in the constitution but sudden insertion of a clause regarding increase of retiring age of judges maligned her willingness regarding holding free and fair election. This change opened the path for opposition for creating strong movement against the government which led to the formation of 1/11 government in Bangladesh. This paper is intended to portray the socio-economic and political atmosphere which encouraged the government to make such amendment and at the same time which action of the government stimulated the opposition to create suffocating environment that paved the way for military takeover in January, 2007.

Index terms— election commission, popularity, opposition demand, movement, free and fair election, Justice K.M. hasan, four-party alliance.

1 I. Introduction

nbuilt character of power is to stay in power and apply all sorts of mechanism to prolong power. In democracy fate of the government lies with the people i.e., fate is determined in periodically held election in which people express their decision in free, fair and peaceful atmosphere. In Bangladesh the land of hotchpotch democracy governments-civilian and military, are seen to employ different tactics to avoid reflection of just opinion of the people in free and fair election. Bangladesh Nationalist Party led four-party alliance government came into power with an overwhelming majority in a free, fair, neutral and nationally and internationally recognized election held under the auspices of caretaker government headed by Justice Latifur Rahman in 2001. Within a short span of time government lost support and started manipulating the next parliamentary polls scheduled in December 2006-January, 2007 in her favour. Under such environment government brought constitutional fourteenth amendment bill in the house with object of materializing the demand of women groups with respect women reserve seat and some trifling issues unconnected with general importance. Immediately before the passage of the bill government inserted couple of new clauses in the said bill one of which, it is said, was inserted just to give constitutional sanction of government's on going election manipulation plan. However, government had justification for such incorporation. But opposition and the people were unhappy with the plea. This article is intended to portray the socio-economic and political environment prevalent before and at the time of making amendment, and at the same time to unearth the moto of sudden inclusion a controversial clause in the said amendment.

2 II. Fourteenth Amendment

Under thirteenth amendment non-party caretaker government was formed to hold seventh Jatiya Sangsad polls. In the election AL won and formed government. During AL reign from June 13, 1996 to July 13, 2001 no amendment was brought in the constitution. But by legislative interpretation change was made in paragraph

5 B) CORRUPTION

43 3A of fourth schedule of the constitution and the Indemnity (Repeal) Act, 1996 was passed for the trial of the
44 leaders of August coup 1975. In October 1, 2001 eighth parliamentary election BNP led four-party alliance won
45 and formed government with Khaleda Zia as Prime Minister.

46 This government brought fourteenth amendment to the constitution to consolidate its power.

47 3 a) Law and order

48 Immediately after victory in October 1, 2001 polls, new breed of terrorists under the banner of JCD in Dhaka
49 University, Rajshahi University, Chittagong University and other educational institutions and their adjacent
50 areas became so desperate for cash money and revenge attack that law and order started deteriorating in lieu of
51 improving it. Not only that different groups of the ruling party engaged in scuffling over due and undue privileges
52 in these institutions. ?? Home Minister Altaf Hossain on October 14, 2001 asked the law enforcing agencies to act
53 against trouble makers and criminals without fear and favour. ?? On December 5, 2001 alarming news published
54 in daily newspapers spoke that some illegal armed cadres took control of garment factories and dairy firms Year
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57 in Narayanganj evicting the owners. It was claimed that these terrorists belonged to BNP. While such incident
58 occurred, PM asked the police to ensure security in markets, terminals and highways. ?? Watching the
59 inconsistency between government's speech and reality regarding punishment of wrong-doers common people
60 started taking law into their own hands for relieving their own grievances against the law enforcing agencies. As
61 a result 21 miscreants (snatchers or mastans) were killed by mob in brought daylight in the presence of police
62 within a period of one week starting from December 4 to 10, 2001. ?? Terrorist activities had been carrying on in
63 full swing inspite of change of government. Only difference lied with the fact that during AL rule Awami cadres
64 directed the robbery, snatching, trespass, treat and other terrorist deeds now BNP cadres did the same thing.
65 With the arrest of Nasiruddin Ahmed Pintu, BNP law maker for terrorism on December 26, 2001 it became clear
66 that top level BNP leadership had connection with terrorism. 5 Law and order situation became so poor that only
67 during Eid holidays in December 2001, 34 persons were killed. ?? Observing the lawlessness atmosphere in the
68 country visiting Secretary General of Amnesty International Irene Khan expressed her deep concern over massive
69 human rights violation in Bangladesh. ?? She was exchanging views with Home Minister Altaf Hossain. In
70 another meeting with Attorney General she sought cooperation from top law office in checking such human rights
71 violation. ?? The US State Department criticized government for failure in improving law and order, human
72 rights violation and poor economic reform. ?? The government in lieu of accepting its futility blamed opposition
73 for deteriorating law and order in the country. In order to make the allegation real AL Chairperson's APS was
74 arrested on February 28, 2002 and was given 10-day remand on charge of patronizing and harbouring terrorists.
75 10 AL leader Mohammad Nasim was also arrested on sedition charge and put into jail on ??arch 20, 2002. 11
76 But government's blame game foiled when AL Chairperson Sheikh Hasina's car was attacked and damaged by
77 terrorist attack on her way to Naogaon on ??arch 4, 2002. 12 Being frustrated of falling law and order on June
78 22, 2002 Finance Minister Saifur Rahman said that protracted miserable law and order was hindering economic
79 uplift and poverty alleviation programme of the government. ??3 On June 23, 2003 State Minister for Home
80 Affairs Mr. Lutfuzzaman Babar filed a general diary with Ramna Thana seeking police protection for his life.
81 14 On July 3, 2002 Canadian High Commissioner David Preston and British High Commissioner David Carter
82 urged the government to improve law and order, ensure security and make parliament effective for economic
83 interest and image of Bangladesh. ??5 All of a sudden according to the information of two captive illegal armed
84 dealers on August 12, 2002 police arrested Mofazzal Hossain Chowdhury Maya, Obidul Kader, Kamal Ahmed
85 Majumder, Shafi Ahmed, Ashim Kumar Ukil on charge of sophisticate illegal fire arms deal. ??6 Watching the
86 failure of her government in maintaining law and order PM Khaleda Zia on April 3, 2002 told the House that
87 Army would be brought in to gear up operation for recovering illegal arms and improving law and order situation.

88 All these persons belonged to AL. Perhaps for this reason common people accused AL of state terrorism it
89 was argued. ??? In the meeting of International Development Partners at Bangladesh Development Forum in
90 Dhaka on May 17-18, 2003 which was held for providing aid to Bangladesh for 2003-2004 financial years, the
91 donors expressed their concern over the poor state of governance and law and order situation in the country. 18

92 5 b) Corruption

93 While corruption charges were being lodged against the members of former AL regime Danish Under Secretary
94 Peter Hansen brought corruption allegation of demanding bribe against Port and Shipping Corporation Minister
95 Col (Retd) Akbar Hossain. ??9 Transparency International Bangladesh ranked Bangladesh top in corruption
96 second time on ??ugust 28, 2002. 20 Referring to the corruption title of Bangladesh World Bank Country
97 Director Fedrich T Temple told a News Network workshop in Dhaka on January 12, 2003 that an independent
98 Anti-Corruption Commission was a must for dealing with institutional corruption. An exceptionally high level
99 of pervasive and endemic corruption ate up national wealth and frustrated Bangladesh venture for sustained
100 economic growth to help people out of poverty. Speakers of the seminar all agreed that corruption existed in
101 high level government ??3 ??3, 2003. 27 This appointment antagonized opposition lawyers further. Barrister

102 Rokanuddin Mahmud, President of Supreme Court Bar Association, denounced this appointment. He termed the
103 appointment of K.M. Hasan as violation of long standing tradition and convention. ??8 The executive committee
104 of the Supreme Court in a resolution said the appointment of Justice K.M. Hasan was unprecedented in the
105 annals of Bangladesh Judiciary. ??9 Former Law Minister Abdul Matin Khashru said, "the appointment of
106 K.M.Hasan as Chief Justice is purely politically motivated. BNP wants the next caretaker government to be
107 headed by its chosen man." ??0 Referring the news published in different newspapers that Justice K.M. Hasan
108 was an adviser of BNP government in foreign affairs during the reign of late President Ziaur Rahman in 1977-
109 1978, Barrister Rokanuddin Mahmud, President of Supreme Court Bar Association, said this appointment was
110 made to fulfill a particular political party's desire which Bar Council did not believe. ??1 Before chilling this
111 issue government appointed Justice M.M. Ruhul Amin to the Appellate Division on July 13, 2003 superseding
112 Justice Syed Amirul Islam, senior most Judge of the High Court Division. 32 Again on January 6, 2004 Justice
113 M.A. Aziz was appointed as Appellate Division Justice superseding Mr. Syed Amirul Islam senior most judge of
114 the High Court Division. ??3 In the meantime government said that it might increase the retirement age of the
115 Chief Justice to 67 from 65. Accordingly government sources revealed that former Chief Justice not mentioning
116 the name had made a recommendation to the Prime Minister Khaleda Zia for the extension of retirement age
117 of the judges of the Supreme Court by amending the constitution. ??4 Here it is worthy to mention that Chief
118 Justice K.M. Hasan was going to end his job on January 27, 2004. ??5 On January 11, 2004 Finance Minister
119 Saifur Rahman while exchanging views with reporters after Cabinet meeting said government might raise the
120 retirement age of the public servants to avoid shortage of experienced officials. ??6 On the other hand perhaps as
121 a part of long term conspiracy, government appointed Justice Syed J.R Mudassir as Chief Justice of the Supreme
122 Court on January 26, 2004. 37 He was picked up knocking down two senior Justices of the Appellate Division.
123 said, "The Supreme Court has been turned into a political chessboard which government wants to use at will."
124 ??9 With regard to the extension of the retiring age of the judges of the Supreme Court, Law Minister Moudud
125 Ahmed said three out of seven judges of the Appellate Division would go on retirement by 2005, while another
126 one would be retired by 2007. That means four out of seven judges of the Appellate Division would go into
127 retirement within a period of three and a half years. In High Court Division another 21 judges would retire by
128 2005 and 2006. He said so many retirements would create vacuum in the court. In order to save the highest
129 judiciary from this vacuum and to keep the ongoing trial tempo there was no alternative but to increase the age
130 of the judges. 40

131 6 d) Election Commission and Government

132 Conflict started to reveal between government and EC over the declaration of election schedule of Union Parishad
133 polls. EC announced that UP polls would be held from January 4 to February 27, 2003. Government insisted on
134 deferring the polls. On November 24, 2002 CEC M.A Sayeed strongly criticised government decision. However
135 in order to minimize difference EC shifted UP polls schedule to January ??5, 2002. 41 Difference between
136 government and CEC became deep when CEC M.A. Sayeed on January 1, 2003 announced that during UP polls
137 army would be deployed to arrest law and order for making polls free and fair. ??2 Due to the presence of CEC
138 M.A. Sayeed government had to face criticism and fall in awkward situation. Opposition appreciated CEC M.A.
139 Sayeed's role for holding free and fair polls.

140 Government expected his removal. With a view to accomplish that object government started to play dirty
141 game with the CEC. Though trial started from early 2003, on the question of deployment of army in UP polls,
142 its climax reached with the declaration of schedule for by-election to Munshiganj and Dhaka-10. It was said
143 BNP MP Major (Retd) M.A. Mannan and Mahi B. Chowdhury resigned from parliament on March 10, 2004
144 and formed Bikalpa Dhara new political party with A.Q. M Badruddoza as president. Consequently EC had to
145 arrange by-election to those seats. At first new party was denied of their desired party symbol for election by the
146 EC for unknown reason. Later on at the interference of High Court they were given their party as well as polls
147 symbol "Kula". Government said they had nothing to do with the business of the EC. Of the two by-polls Dhaka
148 -10 by-polls was very significant for the government. Government had a chance to measure its popularity through
149 these by-polls after spending two and a half years in office. Mahi B Chowdhury won the Munshiganj by-polls
150 easily. But government did not want to lose Dhaka-10 seat. BNP nominated Alhaj Mosaddek Ali Falu, a known
151 terrorist at his early age, as their ??6 candidate against Bikalpa Dhara candidate Major (Retd) M.A. Mannan. In
152 order to bag the election it is alleged that government marched terrorists and criminals in this constituency. ??2
153 In such a case it was heard that Sheikh Jahangir Hussain, judge of Speedy Trial Tribunal was transferred for not
154 giving bail to two notorious criminals viz. Sweden Aslam and his right hand associate. Jahangir Hussain said,
155 "PP Abdullah Mahmud Hasan, Dhaka Metropolitan Sessions Court, and Md. Moinuddin, Special PP to Dhaka
156 Speedy Trial Tribunal No-2 asked him in his chamber to enlarge some criminals accused of STT case No-4 of 2004
157 on bail before the by-polls of Dhaka-10 seat. Since he refused to do that he was transferred to Barisal as Judge
158 of Nari-O-Shishu Nirjatan Daman Tribunal on June 13, 2004. ??3 Referring the event Sheikh Hasina accused
159 the government of bringing together notorious criminals from across the country to ensure election victory in
160 Dhaka-10 seat. ??4 Not only that, CEC for maintaining peace asked for army deployment in the by-polls. In
161 this regard CEC M.A. Sayeed on June 17, 2004 sent letter to the government. ??5 But government did not heed
162 to his demand. This refusal forced the EC and opposition candidate M.A. Mannan to take the assistance of the
163 court. Under these circumstances perceiving certain irregularities in Dhaka-10 by-polls CEC M.A. Sayeed left

9 H) LOSS OF POPULARITY AND DREAM FOR RE-ELECTION

164 the country on 50 day leave to USA on June 25, 2004 on the ground of personal cause. ??6 In his place EC
165 Shafiur Rahman was made Acting CEC. Such leave of 50 days before the crucial by-polls was not a good sign. It
166 signed the victory of the government in getting relief of honest and strong person Mr. Sayeed for the time being.
167 Later Mr. Sayeed spent his last year in office beyond the media. At the last moment one day before polls on June
168 29, 2004 High Court asked the government to deploy armed forces at all polling centres across the constituency.
169 ??7 But during the poll army was inactive. Mannan withdrew his candidature at 10.30 a.m. immediately after
170 the start of polls on July 1, 2004 terming the by-polls nothing but a farce. 58 AL, JP, eleven-party LDF accused
171 the government of unleashed fraud, rigging and absence of proper army personnel in polling station. ??9 On the
172 other hand BNP Secretary General Abdul Mannan Bhuiyan said that by-polls was free and fair. ??0

173 7 f) Loss of Support and Opposition Movement

174 This body throughout four-party alliance rule played anti-government role.

175 Watching the relentless corruption, deteriorating law and order, severe power cut people of the country lost
176 their confidence on the alliance government it was claimed. Not only that, some said alliance government had no
177 chance to win if midterm polls would have been held. Under this circumstances AL and CPB leaders on August
178 10, 2003 agreed to launch movement against the 4-party alliance government. 67 AL General Secretary Abdul
179 Jalil and CPB President Manjurul Ahsan Selim were present in the meeting. They decided their issues on the
180 basis of which the movement would be moved forward. These issues were:-68 1) Full implementation of the four
181 principles of liberation war; 2) Holding trial of war criminals; 3) Halting distortion of the history of liberation
182 war; and 4) Recognition and evaluation of all participated in liberation war irrespective of their party affiliation.
183 None of these issues was connected with the sufferings of the common people. That means, AL and its allies did
184 not feel the pulse of the people, although they claimed themselves as the party of the people.

185 8 g) Kidnapping and Ransom

186 Along with lawlessness, corruption, smuggling, emergence of fundamentalist element, electricity failure another
187 form of crimes increased very fast i.e. kidnapping and ransom in the country. BNP leader and business tycoon
188 Mr. Jamaluddin Ahmed was kidnapped from his way to office in Chittagong on July 24, 2003. It was alleged
189 that his kidnapper demanded 10 crore of taka as ransom. Police arrested his alleged kidnapper but failed to
190 find out his whereabouts. Most astonishing thing in this case was that alleged kidnapper lost his life in police
191 custody on December 11, 2003. ??9 It was claimed that rival BNP leaders were behind this incident. In another
192 event high profile business magnet Rezanur Rahman Zakir was killed for money in Chittagong on August 13,
193 2003. ??0 The business community of the country in an open statement aired on August 31, 2003 expressed their
194 deep concern over the deteriorating law and order along with new nature of crime. They said daily incidents of
195 extortion, smuggling, kidnapping and murder had created widespread scare among the businessmen of all sizes
196 affecting their morale. Similar scare has been prevailing in nearly all sectors of the society who feel captive in the
197 hands of criminals and anti-social elements. They urged the government to launch anticriminal drive immediately
198 in the name of "2 nd Clean Heart" against the criminals, terrorists, and corrupt elements. The signatories of
199 the statement were viz. Mr. Anis Ud-Dowla, President Bangladesh Employers Federation, Kazi Moniruzzaman,
200 President BGMEA, M.A. Awal, Chairman of Bangladesh Textile Mills Association, Tapan Chowdhury, President
201 Metropolitan Chamber of Commerce and Industry and others. 71

202 9 h) Loss of Popularity and Dream for Re-election

203 Along with all these problems the spiral price hike of daily necessities not only made the life of common people
204 hell but also accumulated the burden of the government to an unbearable position. ??2 However condemning
205 the opposition PM Khaleda Zia said, "Inshallah BNP led alliance would return to power again in future with
206 the cooperation of As a result of which popularity of the alliance government reached to its all time low it was
207 claimed. welfare of the people." ??3 PM on December 30, 2003 blamed opposition for maligning Bangladesh
208 image. Sensing their defeat in next election the opposition was trying to create disorder through destructive
209 activities. ??4 The experts opined there was another option for re-election and that was manipulation in election.
210 It is only possible when both the administration and EC would act for the BNP-Jamaat Jote. Perhaps keeping
211 that point in view four-party alliance government from the very beginning started manning administration with
212 partisan officials. AL Chairperson on January 7, 2003 alleged government of politicizing administration. She
213 in an open letter written to IED programme said, "5000 employees were terminated out of political malice,
214 400 officers were graded down to OSD and 400 officers were appointed on contract basis." Such statement of
215 BNP Chairman Khaleda Zia smelt some conspiracy in next parliamentary polls. Common people could raise
216 question why conspiracy was sensed. It was claimed that BNP-Jamaat Jote lost support of the people. For
217 the alleged connection with Islamic fundamentalists foreign governments such as USA, UK, Canada, Australia
218 started maintaining distance from the government from mid 2003. In spite of that BNP-Jamaat Jote dreamed of
219 re-election. ??5 Although number was exaggeration no doubt but genuineness was found when around 200 mid
220 level bureaucrats were seen praying to 1/11 government for remedy against stepmotherly behaviour by four-party
221 alliance government. 76

10 i) Fourteenth Amendment and Opposition

Although JP from the very beginning was opposing the Constitution (Fourteenth Amendment) Bill but it voted for the bill. Referring the change of position JP leader G.M. Kader, younger brother of H.M. Ershad in an interview with TV channel said that JP (Ershad) MPs were compelled to give vote for the Constitution (Fourteenth Amendment) Bill, 2004 in order to save their party Chairman H.M. Ershad from being arrested. 77 Such type of statement not only revealed the hollowness of judicial system but also proved the fear of the opposition true that government was using the highest court for her political interest and would use that in next election. Though AL MPs were not present in the House when the bill was placed on voting yet outside the House Sheikh Hasina said there required no amendment for those subjects. 78 political ends of the ruling alliance. He told the reporters in Sangsad Bhaban that that was a clear arrangement to fabricate and manipulate the future election by BNP and their allies as the bill had set who would be the Chief Adviser of the next caretaker government. They wanted to keep control over the next election. He also said BNP violated its pre-election commitment and ignored the demands of all opposition parties and women organizations for direct election to the women reserved seats. 79

11 III. Provisions of Fourteenth Amendment

It appeared that last retired Chief Justice K.M. Hasan and sitting Chief Justice Mr. J.R. Mudassir held pro-BNP political view. Because both were appointed as Chief Justice superseding senior most judge of the Appellate Division. If retiring age were not increased Chief Justice Mudassir would have been retired earlier not only that other two/more judges could have gone into retirement at the end of 2006. As a result BNP government would not have gotten any Chief Justice of their choice. By this increase of retiring age BNP government got both retired Chief Justice K.M. Hasan and incumbent Chief Justice J.R. Mudassir as certain Chief Adviser of caretaker government for ninth Jatiya Sangsad.

Four party alliance government led by BNP had in its election manifesto pointed out that it would amend the Constitution to increase women reserved seats in the House. On January 14, 2004 four-party alliance in a meeting presided over by PM Khaleda Zia resolved to increase the seats of JS to 450 from 300. Of the 150 seats 100 seats for men and 50 for women. BNP General Secretary Abdul Mannan Bhuiyan said women seats would be distributed proportionately to the political parties having general seats in the House. He told the pressmen that 500-member parliament was one of the election commitments of BNP led alliance. Since maximum accommodation of the House is 450, the alliance has decided to stick to that. 80 On March 8, 2004 Cabinet approved the Constitution (Fourteenth Amendment) Bill. The bill contained three provisions viz., 81 1) Women reserved seats in the House- There will be 45 reserved seats in the House for women. They will be indirectly elected by the elected members of the House. The reserved seats will be distributed proportionately to the political parties having representation in the Parliament. However opposition and women organizations demanded direct election to the women seats. Law Minister Moudud Ahmed rejected that proposal saying it was not politically and constitutionally possible. 82 2) The bill proposed a provision for the government officials to run any local government body if election is not held on time after the expiry of the tenure of elected representatives.

3) The projection and preservation of the portraits of the President and Prime Minister in government offices and organizations is made mandatory. On March 17, 2004 Law Minister Moudud Ahmed introduced the Constitution (Fourteenth Amendment) Bill in the House. The bill contained the following provisions: 83 1) There shall be 45 reserved seats for women in the parliament. They will be indirectly elected by the elected member of the House. These seats will be distributed proportionately to the political parties having representation in the House. This provision is made for 10 years from first session of ninth parliament but it will come into effect for the residual period of eighth parliament.

2) The portrait of the President must be preserved and displayed at the offices of the President, the Speaker and all Bangladesh Mission abroad. While the PM's portrait will be displayed at the office of the President, the Speaker and in head and branch offices of all government, semi-government, autonomous bodies, statutory public authorities, government educational institutions and Bangladesh Missions abroad.

In this regard Law Minister said AL government issued an administrative order with regard to display of portrait of incumbent Prime Minister and President. Accordingly at all government, semi-government and autonomous offices portrait of the then Prime Minister was hung. With the departure of Hasina government supporters of four-party alliance kicked off these portraits disgracefully. Watching the feeling of the supporters of four-party alliance BNP government revoked that order.

3) The CEC will administer oath to the elected members of the Parliament within three days if the designated person under the constitution fails to conduct the oath after three days of the publication of official result of the general polls. 4) The elected members of the local government bodies such as Union Parishad, Municipality, City Corporation shall not continue in office after the expiration of their terms and the election must be held within 90 days of such expiry to reconstitute those bodies. During the interim period a public officer to be appointed by the government will take care of that local unit. Mr. Kader Siddiqi, president Bangladesh Krishak Sramik Janata League, opposed the bill. None of the proposed provisions was related to public causes, it was argued. BNP had promised 200 new seats but proposed only 45 seats only for women. 84 The House sent the bill to the Parliamentary Standing Committee for further scrutiny giving two weeks to complete. On April 20, 2004 all of a sudden three new provisions were included in the Constitution amendment bill and those provisions were as follows; 85 1) Enhancement of the retirement age of the judges of the Supreme Court from 65 to 67. 2) Increasing

15 E) CHIEF ELECTION COMMISSIONER AS OATH ADMINISTERING OFFICER

284 of the retirement age of the Comptroller and Auditor General, Chairman and members of the PSC from 62 to
285 65 years.

286 3) The Comptroller and Auditor General, Chairman and members of the PSC will hold office for five years.

287 With regard to the extension of the retiring age of the judges of the Supreme Court Law Minister Moudud
288 Ahmed said three out of seven judges of the Appellate Division would go on retirement by 2005, while another
289 judge will retire by 2007. That means four out of seven judges of the Appellate Division would go into retirement
290 within a period of three and a half years. In High Court Division another 21 judges would retire by 2005 and
291 2006. He said so many retirements would create vacuum in the court. In order to save the highest judiciary
292 from this vacuum and to keep the ongoing trial tempo there was no alternative but to increase the age of the
293 judges. ??6 On April 26, 2004 Cabinet unanimously approved the reformed amendment bill. 87 On April 28,
294 2004 the bill was introduced in the House for discussion. Bangabir Kader Siddiqi opposing the bill said that the
295 amendments were not necessary. He suggested that the women reserved seat should be raised to 150 and direct
296 election should be made for their election. Regarding the display of portraits he suggested new provision for the
297 display of portraits of Sheikh Mujib and Ziaur Rahman along with President and PM. ??8 By this time on April
298 25, 2004 AL submitted a memorandum to the government demanding for the withdrawal of the amendment bill
299 along with four other causes. ??0 On May 10, 2004 JP President H.M. Ershad called for the government to
300 withdraw the constitution fourteenth amendment bill. He contended that the provisions for which amendment
301 to the constitution had been proposed were unnecessary. With regard to the extension of the age of the Supreme
302 Court judge he said amendment was not acceptable as it might influence the next election. ??1 On May 13,
303 Parliamentary Standing Committee submitted the amendment bill with the recommendation for scrapping the
304 provision of appointment of executive to local government bodies for interim period after the end of tenure but
305 before the holding of election.

306 On May 12, 2004 AL breaking their 11-month long Parliament boycott joined the House. But they did not
307 participate in the voting of the bill on May 16, 2004. ??2 Finally on May 16, 2004 the Constitution (Fourteenth
308 Amendment) Bill was passed by 226 to 1 notes. 93

309 12 a) Display of Portraits of President and Prime Minister

310 A new article 4A was inserted in the Constitution. It lays down that the portrait of incumbent president shall
311 be preserved and displayed at the office of President, Prime Minister, Speaker and all embassies and missions of
312 Bangladesh abroad. Another provision was made with regard to the display of PM's portrait. It writes down that
313 the portrait of incumbent Prime Minister shall be preserved and displayed at the offices of President, and Speaker,
314 and head and branch offices of all government and semi-government offices, autonomous bodies, statutory public
315 authorities, government educational institutions, embassies and missions of Bangladesh abroad. 94

316 13 b) Increase of Women Reserved Seats in Parliament

317 This new provision stopped dirty politics between the major two political parties -BNP and AL with respect to
318 hanging of the portraits of the head of the state and head of the government in government, semi-government
319 and autonomous offices.

320 By tenth amendment term of women reserved seats in the House had been extended for further ten years
321 which ended in the year 2001. The fourteenth amendment made provision for women reserved seat for further
322 ten years starting from tenth parliament. It increased the number of seats from thirty to forty five. A rational
323 concept of distribution of women reserved seats was inserted in the Constitution. It says that every political party
324 having a minimum representation in the Parliament shall get share of women reserved seats ??0 The Bangladesh
325 Observer, April 26, 2004 91 Ibid, ??ay 11, 2004 92 The parliamentary proceeding of May 13, 2004 published in
326 the Bangladesh Observer on May 14, 2004 ??3 The parliamentary proceeding of May 16, 2004

327 14 c) Extension of Retiring Age of Judges

328 This insertion ensured the participation of female in law making process and politics. For the first time in
329 Bangladesh it did justice in distributing female reserved seats among the political parties having seats in the
330 House. Earlier majority party in the House who possessed 151 seats bagged all women reserved seats.

331 In clause (1) of article 96 retiring age of the judges of the Supreme Court was increased to 65 from 62. ??6
332 Although this extension was very much essential for the working of the highest court but it was contended that
333 the government did it for getting political benefit.

334 15 e) Chief Election Commissioner as Oath Administering 335 Officer

336 This extension opened the door for more experienced persons to be appointed as Auditor-General and PSC
337 Chairman or members.

338 A new clause (2A) was inserted after clause (2) in article 148. Previously Speaker was to administer oath to the
339 Members of Parliament. New provision lays down that within three days from the publication of parliamentary
340 result in official gazette Members of Parliament shall take their affirmation. In case of failure CEC shall administer

341 oath to the members of Parliament within three days next thereafter. 99 f) Amendment of Fourth schedule Under
342 this change Speaker is given relief of some duty in respect of administering oath to elected Member of Parliament
343 who fails to take oath from him within three days after the publication of election result in gazette notification.

344 A new paragraph was added after paragraph 22 in fourth schedule. This paragraph introduced forty-five
345 women reserved seats for the residual period of the eighth parliament. These seats were distributed among the
346 political parties which had seats in the House proportionately. ??5 Because of the increase of retirement age under
347 the fourteenth amendment government ensured Chief Justice K M Hasan as the head of caretaker government
348 in 2006. But opposition did not agree with Justice K M Hasan because of his political affiliation with BNP.
349 Opposition in order to materialize their stand created a very violent and destructive political movement leading
350 to lawlessness all over the country. On the other hand government was seen to abide by the constitution with
351 fourteenth amendment. But anarchic suffocating wild political atmosphere created by the opposition did not
352 only force KM Hasan to give up his post before entering into office but also lead the nation towards the military
353 rule under Fakruddin Ahmed from 11 th January, 2007.

354 16 V. Conclusion

355 In democracy power of the government lasts so far it has the support of the people for its performance. BNP
356 led four-party alliance having been voted in power in a landslide victory lost acceptability to the people for
357 its failure in fulfilling her electoral promises. In spite of that government expressed her desire for prolonging
358 power till 2020. Mysterious behaviour of government with Chief Election Commissioner MA Sayed and Election
359 Commission, and appointment of Chief Justice in violation of seniority rule were directed to materialize that
360 dream. These events further defused the image of the government. In spite of losing popular support government
361 brought fourteenth amendment bill incorporating provisions regarding display of portrait, women reserve seat
362 and some other tricky matters. Opposition had no headache regarding these matters. But sudden inclusion of
363 the provision with regard to the increase of retiring age of Supreme Court judge malign the amendment and
364 shaken willingness of the government for testing her fate in a free and fair election. The pre and post amendment
365 behaviour of the government and unequivocal desire for victory in future election questioned the veracity of the
366 government relating people's expectation under caretaker government.

367 But opposition movement foiled government's plan and led the nation towards emergency rule under Fakruddin
Ahmed. ^{1 2 3 4 5}

*[Note: 29 Ibid 30 Ibid 31 Ibid, June 24, 2003 32 Ibid, July 14, 2003 33 Ibid, January 7, 2004 34 Ibid, January 8,
2004 35 Ibid, January 7, 2004 36 Ibid, January 12, 2004 37 Ibid, January 27, 2004 38 Ibid, January 28, 2004]*

Figure 1:

[Note: 41 The Bangladesh Observer, December 1, 2002.42 Ibid, January 2, 2003.43 Ibid,]

Figure 2:

Year 2015
(F)
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Figure 3:

[Note: 60 Ibid.61 Ibid.]

Figure 4:

Figure 5:

proportionately. 95
Year 2015
(F)
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Figure 6:

Figure 7:

Figure 8:

¹Ibid, December 6, 2001 ⁴ Ibid, December 11, 2001 ⁵ Ibid, December 27, 2001 ⁶ Ibid, December 20, 2001 ⁷ Ibid, December 31, 2001 ⁸ Ibid ⁹ The Daily Star, March 6, 2002 ¹⁰ Ibid, March 1, 2002 ¹¹ Ibid, March 21, 2002 ¹² Ibid, March 5, 2002

²Ibid, May 19, 2003 ²³ Ibid ²⁴ Ibid, May 30, 2003 ²⁵ Ibid, August 9, 2003 ²⁶ The Bangladesh Observe, August 31, 2003 ²⁷ Ibid, June 24, 2003

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⁴Politics behind the Passage of Fourteenth Amendment to Bangladesh Constitution: A Politico Legal Analysis

⁵Ibid, December 12, 2003 ⁷⁰ Ibid, August 14, 2003 ⁷¹ Ibid, September 1, 2003 ⁷² Ibid, September 5, 2002.

