

# Amendments to the Constitution of Bangladesh and Good Governance [1991-2011]: A Review

Thesis Submitted for M. Phil. Degree



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### **Declaration**

I declare that this thesis on ‘Amendments to the Constitution of Bangladesh and Good Governance [1991-2011]: A Review’ is my original work. I have completed it under the supervision of Professor Dr. S. M. Ali Reza.

I also declare that no part of the thesis has been published and submitted to be published anywhere.

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## **Credentials**

This is to certify that Shahajadi Khanom has completed her thesis entitled ‘Amendments to the Constitution of Bangladesh and Good Governance [1991-2011]: A Review’ under my supervision. This is her original work. To the best of my knowledge, no part of the thesis has been published or submitted to any person or organization for publication.

I wish her every success.

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## Abstract

Constitution is the supreme law of a country. A modern state cannot be thought of without a Constitution, be it written or unwritten. All countries need Constitution in order to run smoothly. The entire legislative, executive and judicial functions of the state are guided and regulated by the Constitution. Change is the demand of time. To reflect the reality of life, necessity of the day as well as political purpose, the provision of constitutional amendment is highly required. Like other countries in the world, Bangladesh has a written constitution which has gone through 17 constitutional amendments since the time of its birth. In my study, I have analyzed four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>&15<sup>th</sup>) of Constitution which have been amended between 1991-2011 after re-introduction of parliamentary democracy and their contribution to establish good governance in Bangladesh. Democracy and good governance are related with each other. It is impossible to establish good governance without democracy. In spite of introducing parliamentary democracy in the country by the 12<sup>th</sup> amendment of Constitution in 1991 good governance could not reach its expected level in Bangladesh. Rather various kinds of elements of bad or poor governance are remaining here.

By analyzing the 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> amendment of Bangladesh Constitution and from the data received from the primary as well as secondary sources, it can be said that some articles of these amendment have played instrumental role to establish good governance and some are considered as barrier on the way to establish good governance. For example, 12<sup>th</sup> amendment of Constitution is considered as mile stone for democracy as well as good governance. On the other hand, 15<sup>th</sup> amendment is considered as barrier on the way of establishing good governance. Some articles have no relation with good governance and some articles have been inserted in the Constitution for the self interest of the ruling party and some to clear the way for next election, although, it has been done always in the name of public welfare irrespective of regimes.

Besides this, the undemocratic and unethical practiced by politicians as well as people of various professions have created many problems such as massive corruption, nepotism, lack of rule of law, political anarchism and political instability which are considered as barrier on the way of establishing good governance in the country. In my study, I have critically analyzed the amendments that have been amended between 1991-2011 and their positive as well as negative role on the way of establishing good governance.

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## **Abbreviations and Acronyms**

AL - Awami League

ACC - Anti Corruption Commission

BJP - Bangladesh Jatiya Party

BNP - Bangladesh Nationalist Party

CEC - Chief Election Commissioner

CHT - Chittagong Hill Tracts

CTG - Caretaker Government

EC - Election Commission

IMF - International Monetary Fund

JS - Jatiya Sangsad

MPs - Members of Parliament

NGOs - Non-Government Organization

PM - Prime Minister

PSC- Public Service Commission

WB - World Bank

## **Chapter 1. Introduction**

## 1.1 Introduction

Constitution is the higher law and supreme will of a state. It describes the whole system of government of a country, the collection of rules which established and regulate the government. Constitution is the most essential thing to govern a country. It guides the three organs of government that is the executive, the legislature and the judiciary. But no law is eternal in the world. As a human made law, Constitution is not beyond this rule. Like other elements in the world Constitution of a state requires change to fulfill the hopes and aspirations of its populace in the changing world and society. So, to fulfill the demand of the life with the changing world as well as political purpose the provision of constitutional amendment is highly required. Here lies the rationale of amending a Constitution. By the word ‘amendment, we mean change. A legal document can be changed by amendment. In other word, by the word ‘amendment’ we mean the formal change in the written Constitution of a state. Amended documents, when popularly executed, retain the legal validity of the original documents. Almost every country of the world has amended their Constitution to meet demand of the time and for the betterment of its citizens. For example, USA has amended her constitution 27 times. Again there is a deep relationship between amendment of Constitution and good governance. Bangladesh has gone through constitutional amendments’ of 17(seventeen) times from its birth. In spite of amending 17 times, Bangladesh does not receive good governance. Rather corruption, nepotism, lack of rule of law, bureaucratic complexity and political instability etc are remaining here that are considered as the hindrance on the way of establishing good governance. Among the 17<sup>th</sup> amendment some have played role to introduce good governance and some emerged as hindrance on the way of good governance. It is mentionable here that after the fall of autocratic government in December 1990, the 12<sup>th</sup> amendment of Constitution was adopted in 1991that reintroduced the parliamentary system of government. It is impossible to establish good governance without democracy. So, this study will analyze the amendments and their contribution to establish good governance especially which have come into force under democratic regimes between 1991-2011.

## **1.2 Justification /Importance/Necessity of the Study**

By amending Constitution and its proper utilization a country can establish good governance. Again by amending Constitution a country can launch bad governance or maladministration. As the highest law of a state, citizens of the country are compelled to obey it. Bangladesh has got her Constitution in 1972 and from then to now it is amended 17 times in different regimes. When we analyze all the amendments of Constitution, we find that almost every rulers of various regimes amended Constitution for their own interest rather than public welfare. Most of the amendments have brought for strengthening their power in undemocratic way and to establish their ascendancy on others. So there remain various disorderliness and corruption that is a great barrier on the way of good governance. For example, we can mention the 7<sup>th</sup> amendment of Constitution which confirmed the martial law of Ershad regime from 24 March, 1982 to 09 November, 1986 and that was considered as opposing work for democracy. On the other hand, when we analyze the 12<sup>th</sup> amendment of Bangladesh Constitution, we find that this amendment reintroduces the parliamentary system of government which is considered as a milestone to establish good governance in Bangladesh. So we can say that there is a deep relationship between the amendment of Constitution and good governance. Good governance becomes meaningful only if democratic order stikes its roots deeper into the social soil. For this reason, democracy is inevitable to ensure good governance in a country.

In my study, I have investigated the amendments of Constitution and their role to introduce good governance, especially those amendments which have been amended after re-introducing democracy within the period of 1991-2011.

## **1.3 Research Questions**

Research questions of the study are given below:

- What is the relationship between amendment of the Constitution and good governance?
- How democracy and good governance are related with each other?
- What are the barriers in establishing good governance in our country?
- How good governance can be ensured in our country?

## 1.4 Objectives of Research

The following are the objectives of the research.

- Assess the relationship between good governance and amendment of Constitution.
- Review whether the above mentioned amendments act as the barrier on the way of establishing good governance or not.
- Review the contribution of the above mentioned amendments in ensuring good governance in Bangladesh.
- Make scholarly recommendations towards good governance in Bangladesh.

## 1.5 Hypothesis

- It is possible to introduce good governance if power is exercised according to the existing Constitution of the country.
- It will be difficult to establish good governance if the ruling class amend the Constitution for their own interest.
- If the ruling class offers best amendment to Constitution and use it properly, that can play positive role to establish good governance in Bangladesh.

## 1.6 Literature Review

To conduct this study, I have gone through a lot of books and articles that are related to this topic. Many well-known scholars have studied and analyzed the Constitution, amendment to the Constitution and other constitutional issue as well as good governance of Bangladesh. Many writers are writing about it and giving their valuable opinions. For example,

Halim, M. A. (2018) defines Constitution as a set of principles without which the government cannot run state. The author also deals with the making history of Bangladesh Constitution, various amendments of Bangladesh Constitution and their negative well as positive sides.

Another book of the writer Halim, M. A. (2012) discusses mainly with different amendments of Bangladesh Constitution from legislative versus judicial perspectives. The author has also discussed about judicial review power of supreme court giving example of different cases of various country such as United States, Australia, Turkey, Germany, Malaysia, Sri Lanka, India, Pakistan and Bangladesh.

Choudhury, D. (1995) mainly discusses with constitutional development of Bangladesh facing various difficulties.

Ahmed, N. (2004) discusses with the caretaker government, its composition, experience as well as its prospects in Bangladesh.

Khan, M. R. (1995) mainly discusses with the Bangladesh Constitution and Caretaker government.

Haque, A. S. (2004) in his paper, has critically reviewed the problems of good governance in Bangladesh.

Muhit, A. M. A. (2007) in his book discusses with the serious problems that are moving Bangladesh towards a failed state. The author also discusses about critical law and order situation and the issue of rule of law, terrorism, poverty elimination etc. in the country.

Ray, J. K. & Mamoon, M. (2007) discusses with the nationalism, colonialism, neo-colonialism, internal colonialism, civil-military relations and challenges of good governance in these countries. Some significant indicators of good governance and how these could be executed in these countries have been suggested in their book.

Hye, H. A. (2000), mainly discusses with good governance. The author specially emphasizes on Bangladeshi good governance, its problems, prospects and what's to be done for the establishment of good governance. Some notable scholarly outcomes on good governance in Bangladesh have been inserted in his book. The book touches all the segments of the good governance in Bangladesh through considering the overall scenarios.



Syeda, N. (2008) discusses with the governance-related issues in Bangladesh. The writer has explored the causes and problems of non-coercive intervention by the donors in the form of foreign aid and governance agenda that hamper sustainable and indigenous governance process of Bangladesh.

Vartola, J., Lumijarvi, I. & Asaduzzaman, M. (2010) have discussed historical and recent good governance scenario analyses of four dominant countries of South Asia as India, Bangladesh, Srilanka and Nepal. The authors deal with the contemporary challenges of governance and good governance in these four south Asian countries. The writers of the book have identified the major challenges of governance in these countries such as: 1) weak law order situation, failure of justice to check corruption and crime, 2) weak public administration, 3) lack of strict regulation in all sector, 4) inadequate national policy and fund for local government and local self government.

Parnini, S. N. (2009) discusses with the good governance in Bangladesh. Many recent ideas and concept of 'good governance' and 'civil society' are inserted in his book. The author has shown that civil society of Bangladesh can play role for poverty reduction by helping poor people of the country. The writer also has shown how the quality of governance and democracy of Bangladesh can be improved.

Houda, M. N. (2017) states that good governance and development are inextricably link with each other. It is a pre-condition or a consequence of development. The writer also has discussed with the key ingredients as well as problems of good governance in our country. The author finally has given some suggestions for establishing good governance in our mother land.

Ahamed. E., (2006) has discussed about the relationship between democracy and good governance in his book 'Democracy and good governance: Bangladesh perspective'. Basically some articles as well as short essays of the writer have been included in this book. There are thirteen articles and short essays in the book. 'Democracy and good governance: Bangladesh perspective' is one of the most important articles in this book. In this article the writer has firstly discussed with democratic order and good governance. He has discussed about democracy from Greek and Roman civilization to present. The author also has dealt with the overall good governance situation in Bangladesh in different

regimes. The writer has finally given some recommendations to establish good governance in Bangladesh.

But none of the works have specially dealt with the twelfth, thirteenth, fourteenth and fifteenth amendments of Bangladesh Constitution and their role to establish good governance in Bangladesh. My study has covered the above mentioned amendments in deeply and critically analyzed their role to establish good governance in Bangladesh.

### **1.7 Methodology:**

This study is the outcome of qualitative research method. All essential data have been collected from primary and secondary sources. I have followed survey method as well as interview method to collect primary data. Open-ended and closed- ended questionnaire have been used for survey and personal interview. As the study demands analysis of mostly secondary data, information has been collected from various books, journals, articles, news papers, government records and internet etc.

As the pandemic situation is going on, I have to use google forms to collect survey information from most of the participants, while a few number of them were agree to participate interview physically.

### **1.8 Chapterization of the study**

The study has been divided into seven chapters.

**Chapter One:** Introduction, Justification or Importance or Necessity of the study, Aims and Objectives, Hypothesis, Literature Review, Methodology (non-Descriptive part), Research Questions, Chapterization, Limitations and Conclusion of the study are included in the Introduction chapter.

**Chapter Two:** This chapter deals with Conceptual Framework. Definition of Constitution, Amendment, Constitutional amendment, Amendment procedure of Bangladesh Constitution, Governance, Poor/ Bad governance as well as Good Governance, Characteristics of good governance, Core Characteristics of Good Governance are included in this chapter.

**Chapter Three:** It includes making history of the Bangladesh Constitution.

**Chapter four:** It includes 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> amendments of Bangladesh Constitution in details.

**Chapter Five:** It deals with the positive as well as negative sides of 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup> & 15<sup>th</sup> amendment of Bangladesh Constitution and their contribution to establish good governance.

**Chapter Six:** It includes discussion on field-based study of the research; data analysis and graphical presentation of data.

**Chapter Seven:** An overall summary is presented in the chapter. This chapter mainly discusses with recommendations and Conclusion.

## 1.9 Limitation

Limitations occurred in my study are given below:

- As the pandemic situation is going on many scholars with the relevant knowledge were not agree to give interview physically. So, it was so tough to collect data from field and it costs much time, energy and money to collect data. I had to take online survey by using google form while collecting data from field.
- I had to make questionnaire very carefully and tactfully because the topic of thesis is new. Common people have lack of knowledge about amendment of Bangladesh Constitution and good governance. So, I had to take interview and do survey on the people with relevant knowledge.
- Some knowledgeable person disagreed to participate in interview because they felt the research topic difficult. Again someone has requested me to hide their familiarity as they feel the research topic sensitive.
- As the topic of research is new, there is the unavailability of relevant materials or relevant books.
- Web documents for my research area are limited and their downloading or reading subscription is too high to have.

## **1.10 Conclusion**

It is essential to amend Constitution for modernizing it, solving upcoming situations and to develop sound, durable society as well as improving living standards of common mass. The above mentioned things can be ensured only when there remains good governance in a country. This is why, it can be said that there is an inseparable relationship between amendment of constitution and good governance. It would be impossible to introduce good governance if the ruling class amends constitution for their own interest rather than public welfare. When we analyze the 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> amendment of Bangladesh Constitution, we see that the mentioned amendments sometime play role to establish good governance and sometime act as hindrance on the way of good governance. For example, the 13<sup>th</sup> amendment of constitution played a vital role to form good governance introducing caretaker government. On the other hand, this government has been abolished with the 15<sup>th</sup> amendment that is considered as a barrier on the way of establishing good governance. If the Constitution as well as its rules, regulations are amended relating with public demand and its proper utilization can be ensured, there must introduce good governance. As the greatest law of the state, public are bound to obey it. So, I hope that my study will play an important role to establish good governance in Bangladesh.

## **Chapter 2. Conceptual Framework**

## 2.1 Constitution

Constitution is the highest law of a state. It describes the basic principles and structures of a country. It also describes the fundamental rights of citizens and processes of government. The government cannot change it with an ordinary legislative act. The nature and content of Constitution differ from country to country. Each country has separate procedure to amend its Constitution. There are two types of Constitution. These are written and unwritten. Besides this, there are another two types Constitution. These are flexible and rigid. Bangladesh Constitution is a short written as well as rigid document. It has fixed and prescribed rules to change Constitution. It is divided into eleven parts. It has a preamble and 153 articles.

Constitution has no uncontested and universal definition. It has been defined in various ways by different writers.

C.F. Strong defines Constitution as a collection of principles. The powers of the government as well as the rights of the governed and the relation between the two are adjusted by the Constitution.

(C.F Strong, 1970)

Prof. H. Finer defines Constitution as the system of fundamental political institution.

(H. Finer, 1949)

K.C. Wheare, defines Constitution as body of rules that regulates the ends for which and the organs through which the powers of the government is exercised.

(K.C Wheare, 1949)

So, we can say that Constitution is nothing but a set of fundamental rules or established precedents according to which a state or other organization is governed. The three basic organs of government these are the executive, legislative and judiciary are regulated and guided by the Constitution. We cannot think a modern state without a Constitution; be it written or unwritten.

## 2.2 Amendment

By the word ‘amendment’ we mean a formal change that is made to a contract, law, constitution or other legal document. Something can be added, removed or updated by the amendment.

**Justice Shahabuddin Ahmed** defines amendment as a change or alteration, for the purpose of bringing improvement in the written law to make it more effective and meaningful. But it does not mean its abrogation or destruction or a change resulting in the loss of its original identity and character.<sup>1</sup>

( Justice Shahabuddin Ahamed, collected from website)

**Justice H.R. Khanna** says that, “The word ‘amendment’ postulates that the old constitution survives without loss of its identity despite the change and continues even though it has been subjected to alterations.”

(Quoted in Md. Ariful Islam Siddiquee, 2015)

From the above definition, we can say that amendment means the formal change. By the amendment something can be modified, added and undesirable, unnecessary or outdated information can be deleted. Errors existing in the text can be corrected by the amendment.

## 2.3 Constitutional amendment

Constitutional amendment refers to formal change which is made to an existing Constitution of a nation or state. It means any modification, deletion, or additions made to the Constitution. The political system and governing institutions can be changed by amendment. Usually a fixed as well as prescribed procedure is followed for this kind of amendments. Example of such procedures includes super majority in the legislature or direct approval by the electorate in a referendum, or a combination of two or more different special procedures.

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<sup>1</sup>Justice ShahabuddinAhamed, On Bangladesh Constitutional 8<sup>th</sup> Amendment Case, <https://www.academia.edu/7000979/On-Bangladesh-Constitutional-8th-Amendment-Case>, Accessed on 22 April, 2020

## 2.4 Amendment procedure of Bangladesh Constitution

Like other country in the world Bangladesh government has to follow special procedures for amending Constitution.

Bangladesh Constitution has 153 Articles. Among the Articles 142\* has been expressed about the amendment procedure of our Constitution.

### According to Article 142

a) Act of Parliament may amend any law. By the way of alteration, substitution addition n or repeal any provision may be amended. The conditions of amendment of Bangladesh Constitutions is –

**Firstly**, there must have to a details title of the bill which will be amended.

**Secondly**, the bill will be passed in the parliament by two-thirds majority votes of the members of the parliament and then it will be send to the President for his assent.

b) After passing the desired Bill in the Parliament, it will be presented to the President for his assent. He will give his assent within the period of seven days after the Bill is presented to him. If he fails or unable to do so, it will be assumed that he has given his assent to it on the expiration of the period.

## 2.5 Referendum act

Referendum act was published in extraordinary gazette of Bangladesh on 10 August 1991, explained details about referendum. The number of referendum act was 25.

According to the Article 142 of the Bangladesh Constitution, then the bill had been sent for plebiscite by the President before giving assent on it.

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\* Article 142 was substituted by the Constitution [fifteenth amendment] Act, 2011, Section 42.



According to Referendum act, if the Preamble of the Constitution or any written law of article 8, 48, 56, 58, 80, 92 or 142 of the Constitution of Bangladesh needs any change, this will not be changed as a normal amendment process. After passing the Bill in the parliament it will be sent for referendum by the President before giving assent on it. When the citizens of the country support the Bill by giving popular votes on behalf of the Bill, the President of Bangladesh shall give his assent on it. If the result of referendum goes against the Bill, it will be cancelled automatically.

For example, following a constitutional referendum the 12<sup>th</sup> Amendment of Bangladesh Constitution had been passed on 6 August, 1991.

Governance and by implication good governance have become the main themes of discussions and deliberations these days both at the national, local and international levels. This is mainly because of the fact that problems of development are becoming more and more complex.

International financial institutions as well as other donors use the word ‘good governance’ as a condition for the third world countries at the time of giving aid and loans.

## **2.6 Governance**

The term ‘governance’ is an old concept. It has been used in literature from ancient period. Generally governance means decision-making as well as decisions implementing process. We can use the term ‘governance’ in different ways for example; national governance, local governance, international governance, and corporate governance. One of the most important actors of governance is government.

According to Land-ell-Mills and Serageldin, governance is the use of political authority and exercise of control over a society and the management of resources of social economic development.

(Land-ell-Mills and Serageldin, 1991)

According to World Bank booklet reports, governance is as the “manner in which power is exercised in the management of a countries economic and social resource for development”

(M. M. Khan, (1996)

According to Colebatch and Larmour, Governance is seen as something achieved by the interaction of states, markets and communities.

(Colebatch & Larmour, 1991)

We can use the term governance positively and negatively.

1. Good governance
2. Poor or bad governance

## **2.7 Poor or Bad governance**

To understand good governance perfectly, we have to know the concept of bad governance. Generally the opposite side of good governance is bad governance. The existence of all evil things within states is the result of bad governance. Bad governance is the unfavorable relationship between the government and the governed.

According to the booklet of World Bank the followings are the major characteristics of poor governance.

- The public and private resources of the country are not separate in poor governance. Usually public resources are used for private gain in bad governance.
- There remain weak rules and regulations in the country.
- The existing laws of the country are not trustful. Government is not inclined to development in the country.
- Priorities given by government for development in various sectors of the country are not consistent. As a result, there remains misallocation of resources in poor governance.
- The decisions made by government of the poor country are not transparent.

(The World Bank, 1992)

The other features of the poor governance are –

- The costs of the government are excessive,
- The public get the poor service from the government and
- The policy of government fails to achieve its aims.

As a result, a lot of vital issues, including lack of awareness, transparency, accountability and courage of the people who are in higher positions in dynamic society and run the state affairs are responsible for the failure to establish good governance. Bad governance stifles and impedes development.

## 2.8 Good Governance

Good governance is the main engine for shaping the society and bringing it up to the desired level. It is a prerequisite for sustainable development in all over the world. It puts people into the center of development. It is important for the country at all stages of its development. Development literature is using the term good governance increasingly. The concept of good governance is popular with intellectuals, bureaucrats, members of civil society and the IDC (the WB, IMF, UNDP, ADB, etc.). The IDC became interested in governance in the 1980s. This concept was highlighted in the World Bank documents on Sub-Saharan Africa in 1989.

Different writers and institutions have given definition of good governance in different ways. Here are some definitions of good governance.

**The World Bank states** that “Good governance includes the creation, protection and enforcement of property rights, without which the scope for market transactions is limited. It includes the provision of a regulatory regime that works with the market to promote competition. And it includes the provision of sound macroeconomic policies that create a stable environment for market activity. Good governance also means the absence of corruption, which can subvert the goals of policy and undermine the legitimacy of the public institutions that support market.”

(World Bank, 1992)

**According to Bilney**, “Good governance is the effective management of a country’s social and economic resources in a manner that is open, transparent, accountable and equitable.”

(Q. Bilney, 1994)

**G. Crawford** defines, “good governance encompasses strengthening external mechanisms of executive accountability such as political accountability to parliament; financial accountability to the national audit agencies; and legal accountability to an independent judiciary.”

(Crawford G. Crawford, 2001)

In fact, good governance refers to the working relationship among legislature, Judiciary and executive and actions of the executive branch of the state. Good governance refers to the independence of judiciary; enjoyment of fundamental human rights; policy based administrative dispensation; abiding by the rule of law; accountability, transparency, predictability, efficiency and effectiveness of the government. It is the heart of democratization process.

(Saadat Husain, 2002)

## **2.9 Characteristics of good governance**

The World Bank has given some parameters of good governance. These are:

- There remains political accountability in good governance. Citizens of the country will accept the political system. Regular elections will be held in the country to legitimize the exercise of political power.
- There will have freedom of association. Various religious, economic, social, cultural as well as professional groups will participate in the process of governance.
- There will be the rule of law and independence of judiciary in the country. This independent judiciary will protect human rights, secured social justice and guard against exploitation and abuse of power.
- There will have bureaucratic accountability in administration. The public administration will be open and transparent.

- There will have a sound administrative system which will lead efficiency and effectiveness.
- There will have freedom of expression and information. This is also essential for decision-making. Government performance will also be monitored and evaluated by the freedom of information and expression.
- There will have good relationship between the civil society and government.

(Rajbir Singh Dalal, 2011)

But recently World Bank measures the good governance of any country in the basis of

- accountability
- rule of law
- political stability
- absence of violence
- control of corruption
- government effectiveness
- and regulatory quality

The United Nations Economic Commissions for Africa has given some characteristics of good governance. These are -

- It is a political system which inspires input from the civil society.
- The decisions made by government are transparent and accountable and also trustful.
- Strengthened public sector legislative and administrative institutions.
- Electoral administration will not be partial. There will have active and an informed citizenry.
- There will have the rule of law in good governance. It will preserve personal as well as mass people's liberties. It will also confirm citizen's security and safety as well as gender equity. This will also ensure justice for all.

- Public sector management will be operated with stable macroeconomic conditions. The resources of the state will be mobilized effectively and the political resources will be used efficiently.

(Mohammad Nurul Absar, 2013)

Landell-Mills and Serageldin have identified some basic characteristics of good governance. Such as-

- Political accountability (through credible electoral process);
- Freedom of association and participation;
- Bureaucratic accountability and transparency in the management of public funds;
- Freedom of information and expression;
- Capacity building in the public sector

(Pierre Landell-Mills & Ismail Serageldin, 1991)

## **2.10 Core Characteristics of Good Governance**

Good governance has some core characteristics that are given in below:

### **Rule of Law**

Rule of law is the most essential characteristics of good governance. Good governance requires fair legal frameworks. The laws will be enforced impartially and it will protect the stakeholders of the state fully.

### **Transparency**

The free flow of information is essential to build transparency. Concerned people will access the institutions, processes and information directly. A lot of information will be provided. It will be done for monitoring as well as understanding the common people.

### **Participation**

Citizens of the state will take part decision-making process of the government directly or through legitimate interim institutions. These institutions will narrate public interests.

### **Accountability**

Accountability is the most essential thing which can ensure good governance. The civil society, decision-makers in government and the private sector will be accountable to the common people of the country. They are also accountable to the institutional stake holders. This accountability varies from organization to organization on the basis of the decision whether it is internal or external.

### **Consensus Oriented**

Good governance is consensus oriented. Consultation is needed to understand the different interests of the people. This will help to reach a broad consensus of what is in the best interest of the entire citizen. This is also necessary to identify how this can be achieved.

### **Responsiveness**

It is one of the most important features of good governance. It wants organization and their processes. This organization will serve the best interests of citizens within a short time.

### **Effectiveness and efficiency**

Effectiveness and efficiency is another core element of good governance. The organization which implements the processes will make the best use of country's resources. The resources of the country are natural, human, technological, financial and environmental.

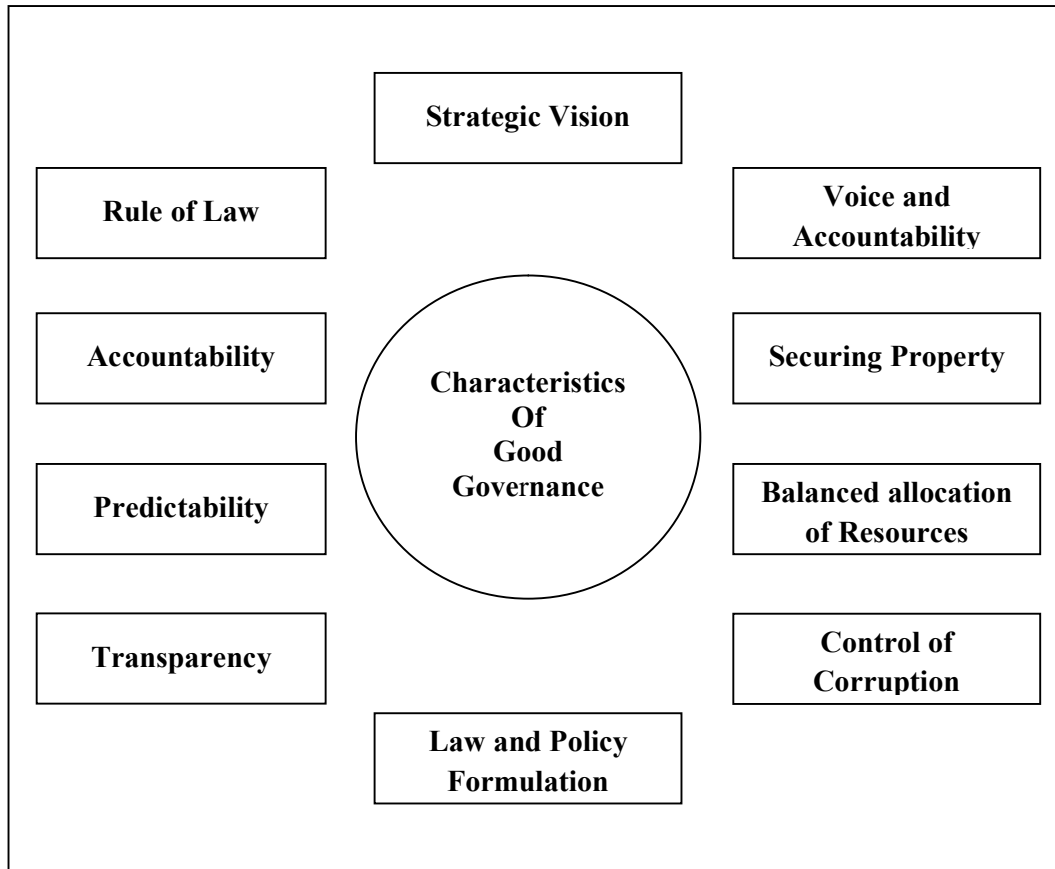
### **Equity**

It is also an important element of good governance. Both male and female of the country will get same opportunities to enhance their welfare.

### **Strategic vision**

It is an element of good governance. The leaders as well as the public will have a broad strategic vision on good governance and human development. They will also identify of what is needed for development of the country.

The following figure illustrates the above mentioned characteristics of good governance.



**Figure 1.** Characteristics of good governance

**SOURCE:**

Url:[https://www.academia.edu/29733620/Characteristics of Good Governance](https://www.academia.edu/29733620/Characteristics_of_Good_Governance),  
Accessed on 12 April, 2020



## **Chapter 3. Establishment of the Bangladesh Constitution**

### **3.1 Bangladesh Constitution**

Bangladesh Constitution is considered as one of the best Constitutions in the world. The constitution assembly adopted it on 4 November 1972. They implemented it on 16 December 1972. Bangladesh Constitution is a written paper. It has 11 parts. This Constitution has 153 articles and 7 schedules. It is a rigid Constitution. If any ruler wants to reform this Constitution he or she needs two-third majority votes of the total members of the Parliament.

According to the Constitution, Bangladeshi Parliament is one chambered. The government of Bangladesh has three main governing bodies to do daily activities of the country; these are the legislature, the executive and the judiciary. From 1 November 2007 the judiciary of Bangladesh is detached from the executive. The Constitution assembly had determined four basic principle of state policy these are Nationalism, Democracy, Socialism and Secularism. They also ascertained the basic rights of the citizens in the third part of Constitution. The fundamental rights of the Citizens of Bangladesh are- right to protection of law, equality before law, freedom of assembly and freedom of movement etc.

According to article 1, Bangladeshi government is unitary. Its Parliament is as like as Westminster type. The Prime Minister is the chief of the cabinet. The government cannot run ignoring cabinet. The ministers of the cabinet exercise the executive power. The head of the government is the President. It is one of the best Constitutions in the world.

### **3.2 Background of the Establishment of Bangladesh Constitution**

A Constituent Assembly adopted a new Constitution for the country after independence. On 16<sup>th</sup> December 1971 Constitution of Bangladesh had been given effective. The country was run by one interim Constitution before the new Constitution was come into force. Originally it was the announcement of our liberty on 10 April 1971 as well as the promulgation of freedom along with the temporary Constitution Order of Bangladesh in 1972.

### **3.3 The Proclamation of Independence**

Following the Pakistan army crack-down on March 25, 1971 the declaration of independence of Bangladesh was broadcasted from the Shadhin Bangla Betar Kendra (Free Bengal Radio Station) in Chittagong. The declaration was an informal announcement because till then it was East Pakistan. So from the viewpoint of international law, to legalize the declaration as well as to legalize the independence war of Bangladesh it was essential to form a revolutionary government. The Awami League leaders i.e. the elected representatives of the East Pakistan had drafted a ceremonial promulgation of freedom on 10 April 1971, with their quick initiative which was come into force from 26 March 1971 and acted as an intermediate Constitution.

### **3.4 The promulgation of our independence that was read with the Provisional Constitution Order in 1972**

On 16<sup>th</sup> December, 1971 Bangladesh acquires its freedom. After coming in Bangladesh on December 22, 1971; the government-in-exile came to Bangladesh. Then the government had taken the administration of the new country. According to the Proclamation of Independence the state administration was being run. On January 8, 1971 Sheikh Mujibur Rahman was released from Pakistani jail. On 10 January, 1972 he returned to Bangladesh. Mujib expressed his desire not to act as the President, on the same day. He chose to be the Prime Minister of Bangladesh like parliamentary system of Westminster type. On 11 January, 1972 President Sheikh Mujib issued the temporary Constitution of Bangladesh Order. In this Constitution the whole feature of the government was changed. The parliamentary system was introduced instead of Presidential form of government. After that, the promulgation of Independence as well as the Provisional Constitution Order of Bangladesh in 1972; acted as the single intermediate Constitution of Bangladesh till 16 December 1972.

### **3.5 Constitution Making Process**

#### **3.5.1 The Constituent Assembly of Bangladesh Order, 1972**

Due to make a permanent Constitution for the new born country, various procedures had been followed by the acting government of the country. As a first step to make a durable Constitution for the independent country was the proclamation of the Constituent Assembly of Bangladesh Order on March 22, 1972. Under this Order the Constituent Assembly was given only one function to discharge and it was to make a Constitution for Bangladesh.

#### **3.5.2 Members of the Assembly**

After the liberation war of Bangladesh, the Constitution Drafting Committee was formed in order to make a permanent Constitution for the country in 1972. The Constituent Assembly included 403 members who were members of Pakistan's federal and provincial assemblies from East Pakistan. Among the 403 members 400 had come from AL, One from NAP and two of them were Independents.

#### **3.5.3 First Session of the Assembly**

On 10 April 1972, first session of the Constituent Assembly had begun. In the first day of the sessions Sha Abdul Hamid was elected as speaker and Mohammad Ullah as deputy speaker. On the second day of the session, a Constitution Drafting Committee of 34 members was formed. The chairperson of the committee was Dr. Kamal Hossain who was the Law Minister of that time. Almost all members of the committee were from AL except one member. The name of the member was Suranjit Sen Gupta who had come from the political party NAP (Mozaffar). There was only one women member of the committee. The name of the women member of the committee was Razia Banu.

The first meeting of the committee was held on 17 April 1972. A resolution was adopted in this meeting. This meeting invited people of all sections to give their suggestions as well as proposals to the Constitution making committee. Ninety-eight memoranda were received from the people of all professions. Due to make the draft Constitution, the drafting Committee of Constitution had to join seventy-four meeting. The committee

approved the draft Constitution on 10 June. Then Dr. Kamal Hossain went to Britain and India to observe the parliamentary constitutional system practically. In the last meeting of the committee which was held on 11 October 1972, the full draft Constitution had been approved finally.

#### **3.5.4 Second Session of the Constituent Assembly**

On 12 October 1972, the Second session of the Assembly had begun. On the same day the draft Constitution was inaugurated by Dr. Kamal Hossain. Then a long discussion over the Bill was held from 19 October to November 3. At the time of long discussion the committee proposed 163 amendments. Among these amendments 83 were adopted. Maximum of these amendments were moved by members of AL. One was moved by the member of NAP. The name of opposition member was Suranjit Sen Gupta. Most of the amendments were relating to the linguistic errors as well as and grammatical errors of the Bill. The third reading of the Bill was held on 4<sup>th</sup> November. Then the Assembly adopted the Constitution of Bangladesh, on the very day. At last, on 16 December 1972 it was given effect. Thus, after passing a long history Bangladesh Constitution started its journey from the first victory day of independent Bangladesh.

**Chapter 4. Amendments to the Constitution of  
Bangladesh: from Twelve (1991) to  
Fifteen (2011) Amendments**

## 4.1 Summary of 17 Amendments to the Constitution of Bangladesh

As an independent nation Bangladesh Constitution is not above the constitutional changes. Bangladesh has gone through 17 Constitutional amendments since the time of its birth.

**The summary of all the amendments are discussed in below:**

**The first amendment act:** On 15 July 1973, the first amendment act of Bangladesh Constitution had been amended. This is too much important amendment to give punishment to the criminal of our liberation war. Due to make the way to give punishment for the crime of genocide and other crimes against humanity which was committed at the time of liberation war in 1971.

**The second amendment act:** On 15 July 1973, the second amendment act had been passed in the parliament. Some basic rights of the citizens had been suspended by this amendment suspended some basic rights of the citizens. This act had included emergency provision for the state.

**The third amendment act:** On 28 November 1974, the third amendment had been passed in the Parliament. This amendment had been done to do borderline agreement effective which had been done with our neighbour country that is India.

**The fourth amendment act:** On 28 November 1974, the fourth amendment had been passed in the Parliament. In the amendment history of Bangladesh it is very much discussed amendment. By this amendment act there introduced presidential system of government. The power of the judiciary was lost. Instead of multi- party system there introduced one party system.

**The fifth amendment act:** On 6 April 1979, the fifth amendment of Bangladesh Constitution had been passed. By this amendment all activities of the first military ruler from 15 August 1975 to 9 April 1979 had been legalized.

**The sixth amendment act:** On 10 July 1981, sixth amendment of Bangladesh Constitution had been passed. By this amendment the post of Vice President had been cancelled if he or she elected as a President in the election of president.

**The seventh amendment act:** On 10 November 1986, the seventh amendment of Bangladesh Constitution had been passed. All acts of the second military ruler from 24 March 1982 to 11 November 1986 had been legalized by this emendation.

**The eighth amendment of Constitution:** The eighth amendment of Bangladesh Constitution had been passed on 9 June 1988. By this amendment Islam had got the status of state religion. There had been established six fixed benches of Supreme Court outside our capital Dhaka city.

**The ninth amendment act:** On 11 July 1989, the ninth amendment act of Bangladesh Constitution had been passed. The period of the President and the Vice President had been determined five years by this amendment. The direct election of the President and the Vice President had been introduced by this change.

**Tenth amendment of Constitution:** The tenth amendment of Constitution had been passed in the parliament on 23 June 1990. The main theme of this change was to increase the period of 30 women member's reserved seats for 10 years in the Parliament.

**The eleventh amendment act:** On 10 August 1991, eleventh amendment of Bangladesh Constitution had been passed. By this amendment all the activities of the acting President and Chief Justice of Supreme Court Shahabuddin Ahmed who was Vice President of Bangladesh too and then return to his previous post had been legalized.

**The twelfth amendment act:** In the amendment history twelfth amendment has played vital role to establish good governance of Bangladesh. On 18 September 1991, this amendment had been passed in the parliament. Parliamentary form of government has been reintroduced by this twelfth amendment of Constitution.

**The thirteenth amendment act:** On 28 November 1974, the thirteenth amendment act of Bangladesh Constitution had been passed in the parliament. By this amendment the Caretaker Government had been introduced. On 4 August 2004, this system of government had been declared as illegal by the High Court of Bangladesh.



**The fourteenth amendment act:** On 16 May 2004, the fourteenth amendment act of Bangladesh Constitution had been passed in the parliament. The period of reserved seats of women in the Parliament had been increased for ten years and election of 45 reserved seats to be done in accordance with proportional representation system by MPs as well as there increased the period of some constitutional post such as the chairman of PSC and the chief justice of Supreme Court by this amendment.

**The fifteenth amendment act:** On 30 June 2011, the fifteenth amendment act of Bangladesh Constitution had been passed. The provisions of Caretaker government had been abolished by this act. Islamic secularism; Bangladesh and Bangalee nationalism and some major changes in the Constitution introduced.

**The sixteenth amendment act:** On 22 September 2014, the sixteenth amendment act of Bangladesh Constitution had been passed in the parliament. By this amendment the parliament got the power to impeach the judges of Supreme Court for their physical as well as mental inability or bad conduct if it is proved. The sixteenth amendment act had been declared as illegal in May 2016 by the Supreme Court.

**The seventeen amendment act:** This is the last amendment of our country till now. On eight July 2018, the seventeen amendment act of Bangladesh Constitution had been passed in the parliament. By this amendment, the tenure the fifty lawmakers of women reserved seat have been extended to twenty five years.

## **4.2 Twelfth Amendment**

### **4.2.1 Background**

Under the second military rule in Bangladesh Ershad came to power and he remained in power for the longest period-8years and 9 months. But with the passage of time the intensity of anti-regime movement increased .Throughout his rule, the issue which hunted Ershad was the question of his legitimacy to govern the country.

Ershad's rule particularly from November, 1987 faced a serious challenge from the opposition. The fourth parliamentary election of March, 1988 actually further deepened

the legitimacy crisis of Ershad government. The anti-regime movement reached its peak. People could not be stopped through killing, arrest and torture. Continuous movement reached its climax in 1990. Moreover, all three main alliances bridged their differences in order to unseat Ershad. On November 19, 1990 all the three alliances formed a common platform. In this platform they had given signature in a paper jointly. From their joint announcement the three main alliances promised to change autocracy and wanted to introduce democracy.

This joint declaration was a milestone in the movement for restoration of democracy. To suppress the anti-government movement Ershad declared a state of emergency suspending basic rights. But the emergency could not bring the tense situation under control; it rather produced a counter-action. The curfew was openly violated. The streets were filled with processions, demonstrations and meetings demanding the resignation of the government. People of various professions had given their strong support to the movement.

When the anti-government movement touched its highest pick, Ershad appointed Justice Sahabuddin as Vice-President on 6<sup>th</sup> December and Ershad himself resigned from his position and the responsibilities of the President had been done by Justice Sahabuddin Ahmed.

Thus the 9 years autocratic regime of Ershad came to an end and time to come to lead the nation on a new journey in search of democracy.

(Md. Abdul Halim, 1998)

Assuming the office of the Acting President Justice Sahabuddin Ahmed first dissolved the existing parliament on 7<sup>th</sup> December. The 5<sup>th</sup> parliamentary election was held on 27<sup>th</sup> February, 1991 under Sahabuddin interim government. It was this 5<sup>th</sup> parliamentary election which came to be considered as fully neutral and impartial in the electoral history of Bangladesh since 1971.

In that election, BNP emerged with single largest majority by bagging 140 seats. But it was insufficient as it lacked the required 151 seats. At this situation the BNP expressed its readiness to form a coalition government with any patriotic and nationalist force. After a

hectic lobbying the Jammata-i-Islami came forward to support the BNP. Then the Acting President formed a 30 member cabinet headed by Khaleda Zia on March 19, 1991.

(Ibid, 1998)

Khaleda Zia in accordance with the meeting with her kitchen cabinet, decided to opt for a parliamentary system.

After a long discussion the committee finalized their report on twenty eight July 1991 and the twelfth amendment was brought forward in the parliament by the BNP government. The 12th amendment was passed in the parliament on 6 August 1991; Three hundred and seven members of the parliament had given their vote on behalf of the amendment. Nobody gave vote against twelfth amendment act. Then the bill had been sent for plebiscite by the President before giving assent on it. Referendum was held on 15<sup>th</sup> September 1991. In the plebiscite 84% people gave vote on favour of the amendment. On 18 September 1991 the twelfth amendment became effective. Thus after a long journey and struggle there reintroduced parliamentary democracy in our country.

(Ibid, 1998)

#### **4.2.2 Subject Matter of the Twelfth Amendment**

It is a very important and significant amendment. This amendment has enriched the development history of Bangladesh Constitution. Articles 55, 48, 56, 58, 57, 60, 59, 72, 70 109, 124, 119, 124, 142 and 141A have been amended by this amendment act.

**The following are the main theme of this amendment:**

- The 12<sup>th</sup> amendment of Constitution re-introduced parliamentary system of government in our country. According to this amendment the executive head of the country will be the Prime Minister.
- The constitutional chief of the state will be the honorable President.
- By this amendment the post of the Vice-President had been cancelled.
- The chief of the cabinet will be the Prime Minister. He as well as his cabinet becomes responsible to the Jatiya Sangshad.
- The members of the Parliament will elect the President.

- This amendment ensures the people's participation in the local bodies by inserting Article 59 and democracy becomes stronger for this.
- Due to prevent floor crossing more strongly this amendment has inserted two sub-sections added to Article 70.

## **4.3 The Thirteenth Amendment**

### **4.3.1 Background**

The fifth parliamentary election is too much important in the history of parliamentary election especially for the restoration of democracy in our country. It was held in 1991 under the President Justice Sahabuddin Ahmed. The election was nationally and internationally recognized as neutral and impartial. In this election, the BNP formed government; winning majority seats in the parliament. But from the beginning of the BNP government the opposition parties began to create pressure. This had been happened only for caretaker government. The opposition parties continuously gave pressure to the incumbent government so that the government may include provision for Caretaker government in the Constitution.

Subsequently the AL, the JP and Jamat-i-Islam submitted their respective Bills on behalf of the caretaker government in 1993. The main theme of the Bill was to make general elections neutral, impartial as well as free and fair. Not only this, the whole process of election would be free from the government influence. So, the law for the neutral caretaker government should be introduced in Bangladesh Constitution. But the incumbent government declared the demand of the opposition parties as illegal and unconstitutional. The turning point for the movement of neutral caretaker government was the Magura by-election. In this by-election, the opposition parties blamed the ruling government party BNP to take resort to an unprecedented- rigging and malpractice. Most important dailies reported this election as same as the election manipulation in 1988. Before the Magura fact, all the opposition parties made walkout from parliament in protest of a statement made by the then information minister Nazmul Huda. They had made a commitment that they would not return to parliament unless the information minister eradicates his statement. To this boycotting of parliament along with 'Magura election'

malpractices gave extra strength of the movement. So, the opposition parties got their direct way of demanding the 'caretaker government'. They declared that they would not go back to parliament till their expected government Bill was introduced in the parliament.

(Md. Abdul Halim, 1998)

But, the ruling government of that time was careless to this demand. As a result of the fact, about 147 MPs resigned from the parliament on 28 December 1994. The incumbent government of that time was preparing to hold a by-election in 142 vacant seats. Then the opposition political parties went to hard line with their movement and they gave continuous country-wide strike. The ruling government dissolved the fifth parliament on 24th November 1995 and gave the date of sixth parliamentary election on 15 February 1996. As the government of that time did not give any attention to the demand of caretaker government by the opposition, the election was boycotted by the opposition parties. Some small political party by name had participated in the sixth parliamentary election along with the so-called ruling party. In this election the ruling party got the majority seats. When the result of the election was announced, there added fuel to the fire to the movement of opposition parties. After the election, country-wide non-cooperation movement was launched by the all the opposition parties for the demanded of falling the government and breaking up the sixth parliament. At that time the politico-economic condition of the country was leading to a civil war. Finding no other way, on 21 March 1996 the BNP government introduced the thirteenth amendment Bill in the first session of the sixth parliament at last. The Bill was also called the caretaker government Bill. The thirteenth amendment Bill was passed in the parliament on 26 March 1996. The sixth parliament was dissolved on 30 March. The sixth parliament was existed within seven days. Then according to the thirteenth amendment Bill, 1996 Justice Habibur Rahman was appointed, as the chief adviser of the Caretaker Government.

(Ibid, 1998)

#### **4.3.2 Subject matter of the thirteenth amendment**

On 26 March, 1996 the thirteenth amendment of Constitution had been passed in the parliament with 268-0 votes. On 28 March, 1996 it became law. By this amendment a new chapter had been added in part four of the Constitution. Five new articles such as 58A,

58B, 58C, 58D and 58E also had been inserted by this amendment. It amended not only articles 61,123, 99,152 and 147 but also the Third Schedule of the Constitution.

#### **4.3.3 Features of Bangladesh Caretaker Government**

The thirteenth amendment had been passed by the sixth parliament. The amendment contained provisions of keeping some article 48 (3), 141 A 9(1) and 141C (1) ineffective during the period of caretaker government.

#### **4.3.4 Formation of Caretaker Government:**

According to Provision of the 13<sup>th</sup> Amendment the question of caretaker government will arise in the following two situations:

- If parliament is dissolved Caretaker government will be appointed within 15 days after such dissolution.
- If parliament stands dissolved, a Caretaker government will be appointed within 15 days after such dissolution.

The features of the amendment and the Caretaker government were as follows:

(Jalal Firoj, 2012)

**Entering time upon office:** When the parliament is dissolved or stands dissolved by reason of expiration of its term, the Caretaker Government will enter upon office. Under the leadership of chief adviser the others members of this government will also enter upon the office. When a new Prime Minister will enter upon his office after the formation of new parliament, the period of caretaker government will be dismissed.

**Collectively responsible:** The Chief adviser as well as the other advisers of the Caretaker government will be responsible to the honourable President collectively.

**Executive Power of Caretaker Government:** The Caretaker government will exercise the executive power which has been described in the article 58D (1) of the Constitution;

or this government will exercise power with the advice of the authority of the non-party Caretaker government.

**Emergency power:** According to the thirteenth amendment of Constitution the President will issue a declaration of emergency without the advice of the CA.

**Power on Defense Services:** The President of our country will exercise, regulate and administer the supreme power of defense services of the country during the time of Caretaker government.

**Qualification of the Advisers:** According to the article 58C (7) the qualification of the advisers will be –

- An adviser must have the qualification to be elected as Member of Parliament.
- Advisers of the Caretaker government will not be the members of any political party; or they will not be the members of any organization which is associated with or affiliated to any political party.
- They will give signature in a written document ensuring that they will not be candidates for the next election of members of parliament.
- Their age limit will not be more than 72 years.

### **Composition of the Caretaker Government**

The Caretaker government will be composed in the following ways:

- It is said in the article 58C of the Constitution that the Caretaker government will be made up of 11 members. One member will be the chief adviser and the rest 10 members will be advisers.
- Following persons having qualification of an adviser may be appointed as Chief Adviser by the President:
- The person who had retired last; among the retired Chief Justices of Bangladesh.
- If such kind of retired Chief Justice is unwilling to take the position of CA or unavailable, the President shall employ the person as a CA who had retired next

before the last retired Chief Justice, among the retired Chief Justices of Bangladesh Supreme Court.

- If the retired Chief Justice is unwilling to maintain the post of CA or unavailable, the President shall appoint the person as CA who had retired last, among the retired Judges of the Appellate Division of Supreme Court.
- If such kind of retired judge is unwilling to take the post of CA or is unavailable, the President shall appoint the retired judge of the Appellate Division who had retired next before the last; among the retired judge of the Appellate Division.
- If such retired judge is unwilling to go to the post of CA or unavailable to hold the office of CA, the President shall appoint the Chief Adviser from among citizens of Bangladesh. After consulting much with the major political parties, the President shall take the decision.
- If none of the above-mentioned persons can be found as the CA, the President shall exercise the power as well as the functions of the Chief Adviser. (Article 58C).

### **Appointment of the Advisers**

According to the advice of the Chief Adviser, the President of Bangladesh shall employ the ten advisers of Caretaker government.

### **Resignation of CA and Advisers**

If the CA or other ten advisers want to resign from the office of Caretaker government he or she will have to write resignation letter by his or her own hand and will have to address to the honorable President of Bangladesh.

### **Status of CA and Advisers**

The CA will get the status of the Prime Minister of Bangladesh. He or she will get the privileges and the remuneration as like as the Prime Minister. An adviser will get the status, privileges and the remuneration like the Minister of Bangladesh.



## **Dissolution of the Caretaker Government**

After the formation of new parliament, the new Prime Minister will enter upon his office and the Caretaker government will be dissolved.

## **Functions of the Caretaker Government**

**Carry on routine functions:** According to the article 58D (1), the Caretaker Government will not make any decision which is related with state policy. This government will perform only the daily routine functions of the country.

**Functions for neutral and fair election:** As an interim government, the most important function of the Caretaker government is to arrange the general election of the members of parliament neutrally, fairly and peacefully. For holding the general election of Parliament impartially and peacefully, this government will give all possible help to the Election Commission.

## **4.4 The Fourteenth Amendment Act**

### **4.4.1 Background**

On 16 May 2004, the fourteenth amendment act of Bangladesh Constitution had been passed in the parliament. In 2001, the thirty reserved seats for women members in parliament had expired. So, there were no reserved seats of women in the eighth parliament. As a result, after passing three years of the life of eighth parliament, the ruling party BNP had passed the fourteenth amendment act. By this act, the reserved seats for women had been re-introduced in the parliament.

(Md. Abdul Halim, 1998)

### **4.4.2 Subject matter of the Amendment**

- By this amendment the number of reserved seats for women had been increased in the Parliament from 30 to 45. This had been increased for ten years. ;(art-65)
- A new article 4A after article 4 had been inserted in the Constitution. The aim of inserting such new article in the Constitution was to preserve and display the portraits of the President as well as the Prime Minister in all the offices; such as

government, autonomous offices and semi-government offices and also in diplomatic missions in abroad. That was compulsory for all the offices.

- The retirement age of Supreme Court judges had been increased from 65 to 67 years by this amendment. For this purpose Article 96(1) had been amended by this act.
- By this amendment act Article 129 of Constitution had been changed and the retirement age of Auditor-General had been increased from 60 to 65.
- The retirement age of the Chairman as well as other members of Public Service Commission had been increased from 62 to 65 by this act. By amending Article 139 of the Constitution it had been done.
- The Chief Election Commissioner had been given the power to administer oath of the newly elected members of the Parliament by this amendment act. Due to perform the above mentioned deed, article 148 of the Constitution had been changed.

## **4.5 The Fifteenth Amendment**

### **4.5.1 Background:**

Nationalism, Democracy, Socialism and Secularism are four fundamental principles of our main Constitution and the political philosophy of Awami League is also in line with constitutional principles. Awami League took initiative for the 15<sup>th</sup> amendment when Supreme Court voids the 5<sup>th</sup>, 7<sup>th</sup>, and 13<sup>th</sup> amendments in a verdict. On 30 June 2011 the fifteenth amendment bill had been passed in the parliament. There were fifteen proposals within the bill. The opposition parties did not support the bill rather they were boycotting parliament. The bill had been passed by 291-1 votes.

Before passing the fifteenth amendment act of Constitution in July 2010, a Special Parliamentary Committee of fifteen members had been formed. The chairman of the committee was the Deputy Leader of the House Syeda Sajeda Choudhury. The Vice-Chairperson of the committee was Mr. Suranjit Sen Gupta. Although the amendment committee invited the main opposition party BNP to join the Committee, they refused.

Before giving any decision, the committee had consulted with peoples of various professions such as former Chief Justices, members of the civil society, representatives of political parties as well as the prominent members of the legal profession; over a period of eight months. On March 29, 2011 the committee had called its fourteenth meeting. In that meeting the committee had come to a unanimous decision not to keep the caretaker system active.

Another meeting of the committee had been held in April 2011. In that meeting, the PM expressed her opinions about the life-time of the caretaker government. The PM suggested that the period of caretaker government should be limited. But she did not want to cancel this government. Again on 29 May 2011, a meeting of the committee was held and in that meeting the Committee recommended to limit the period of the caretaker government. They suggested that the life-time of this government would be a maximum days of 90.

The Committee had met the Prime Minister on 30 May 2011 and decided to abolish the non-party caretaker government system. The ruling party had shown the only one logic for the abolitionism of caretaker government that this system of government is unconstitutional in the view of the Supreme Court. Because the Supreme Court had declared the caretaker system unconstitutional in early May 2011. In June 2011, the committee prepared its final report and suggested the abolition of the law of the caretaker government. The fifteenth amendment Bill without the provision of caretaker government had been approved by the Cabinet on June 20, 2011 and thus abolish the provision of caretaker government. Again the Bill was introduced in Parliament on 25 June 2011. Finally, it had been passed on 30 June, 2011.

#### **4.5.2 Subject matter of the Amendment:**

The following are the main features of the 15<sup>th</sup> amendment:

1. The law of Caretaker government system had been abolished by this amendment act.
2. 'Bismillah-Ar-Rahman-Ar-Rahim' was kept above the Preamble as well as Islam was retained as the state religion
3. The incumbent cabinet would arrange all the future general elections of parliament.

4. The sentence 'Absolute faith and trust in Allah' was erased or removed from the Constitution.
5. This amendment had allowed religion-based politics provisionally
6. Secularism and freedom of religion was revived by restoring article 12 of the Constitution.
7. This amendment had declared the people of Bangladesh as Bangalees; as a nation and citizens of Bangladesh as Bangladeshis.
8. By this amendment the indigenous people would be termed as tribal and ethnic minorities.
9. More than 50 articles of the Constitution that are related with the basic provisions were made unchangeable.
10. This amendment had taken initiatives to stop capturing of power through extra-constitutional means. For this purpose, this act had inserted articles 7A and 7B in the Constitution after article 7.
11. If the Member of Parliament does not want to cast vote similar to his or her party's decision on any issue, he or she will remain absent from the parliament. Article 70 of our original Constitution had been restored by the fifteenth amendment act that had allowed the MPs to remain absent from the parliament in the above mentioned situation.
12. If the Parliament breaks down for any reason, the parliamentary election will be held within ninety days.
13. By this amendment act, the judgement of war crime suspects had been legalized. It was said in this amendment, if the war crime suspects were not part of any armed force or assistant force in 1971, they cannot be challenged in any court.
14. The reserved seats of women Member of Parliament had been increased from 45 to 50.
15. The President will appoint the Chief Justice of Supreme Court. By consulting with the Chief Justice, the President will also appoint the other judges.

16. The President will exercise all power of defense services according to the existing law of the country. The supreme command of the defense services shall also be conferred in the hand of the president.

17. The preservation and display of the portrait of the Sheikh Mujibur Rahman in all government, non-government educational institutions, semi-government offices as well as autonomous bodies both in home and abroad must be ensured. This also be ensured in the embassies and missions of Bangladesh in abroad too.

18. Various historical speech of father of nation Bangobondhu Sheikh Mujibur Rahman such as speech of 7 March 1971, declaration of Independence after midnight of March 25, 1971 as well as the announcement of Independence which was declared on April 10, 1971 by Mujibnagar government were embodied in the Constitution by fifteenth amendment act.

19. A new clause was introduced by this act to safeguard and develop the environment as well as wildlife. It was said that the responsibilities of protection of natural resources, forest, biodiversity, wildlife and water bodies will go under the control of state. The state will also preserve and develop the environment. The aim of these initiatives was to save not only the present generation but also the next generations.

**Chapter 5. Amendments to the Constitution of  
Bangladesh and Good Governance  
[1991-2011]: A Review**

## 5.1 Twelfth Amendment and Good Governance: A Review

Twelfth amendment is known as the most landmark in the history of constitutional development in Bangladesh which reintroduced parliamentary system in our country. The political environment of our country is not enough good to make any common decision for the country. The relation between government and opposition party is bitter and hostile. When the party in power takes any policy, the opposition parties go against it, although the policy is good for the country. Again when opposition parties criticize even any bad policy made by ruling party, the party in power does not bear it rather they take the policy of suppression on the opposition parties. This is the political scenery of Bangladesh. Twelfth amendment is the real and burning example of the political scenario of Bangladesh where the opposition party and the government party were united to amend the Constitution. This is the example of hope and expectation in the rival as well as hostile political environment of our country. This kind of political situation is needed for strengthening democracy and good governance.

The twelfth amendment played most important role to establish good governance in Bangladesh. **My arguments are given in below:**

**Firstly:** Parliamentary system is a must to establish democracy. For ensuring good governance democratic environment is the most essential things. Good governance is the heart of democratization process. Democracy and good governance are indispensable in a democratic system to enhance economic, social as well as political development of a state.

**Secondly:** Good governance does not support dictatorship. Twelfth amendment dismisses the dictatorial character of the President providing some article in the Constitution. Here I would like to present some article in this context.

i) The 12<sup>th</sup> amendment of Constitution had inserted the article 50(2). It was said in that article that no President of Bangladesh would exercise his power as President more than two terms. Thus it has restored the democratic laws like the original Constitution. This kind of time bound of the President to stay in power is a good sign for preventing the dictatorial character of the President. So, it will help to establish good governance.

ii) Article 141A of the Constitution has been provided for the declaration of emergency power by the President. But before the emergency is proclaimed, the counter signature of the Prime Minister is needed for its validity. By this way, all power of declaring emergency goes in the hand of the PM. For safeguarding the possible misuse of power by the President, this initiative is praiseworthy and it will strengthen the democracy as well as good governance.

iii) Article 141C of Bangladesh Constitution has given the extra power in the hand of the President at the time of emergency of state. But there has an obligation to exercise the power. During the emergency of the country, the President cannot suspend the enactment or enforcement of basic or fundamental rights of the citizens without the written advice of the PM. This is no doubt a good sign for good governance.

iv) By creating a new Article 145A in the Constitution, this amendment has improved the power of parliament in regard to international treaties. In this new Article 145A, it has been said that all treaties with foreign countries shall be placed before parliament by the President. Before inserting this new Article in the Constitution, the President could do any international treaties for national interest without the decision of parliament.

v) By misusing the discretionary power of the President in Pakistan period, the President had created various problems such as cabinet instability, rendering government unworkable etc. So, considering this bitter experience into account the framers of the Constitution of Bangladesh have inserted strict laws for the President which will prevent the dictatorial work of the President. This is a good sign for democracy as well as good governance.

(Md. Abdul Halim, 1998)

## **5.2 Thirteenth Amendment and Good Governance: A Review**

There are some important parameters of good governance such as political accountability, regular elections as well as people's acceptability of political system which are considered as most important parameter of good governance in the view of World Bank.

The thirteenth amendment of Constitution had played important role to establish good governance in Bangladesh. The inauguration of neutral Caretaker government to supervise



future parliamentary elections was considered as a milestone in the political history Bangladesh. Three parliamentary elections during period 1996-2008 had been held under Caretaker government. This system of government had got praise both in home and abroad especially for holding national election impartially. Many believed that the success of Bangladesh with the system can serve a role model for the developing countries who have faced problems similar to Bangladesh. We can say that the thirteenth amendment of the Constitution had played positive role to establish good governance. The arguments are given below:

**Firstly:** In democracy, election is the most essential thing to form government. It is the fundamental basis for making government. Without fair and neutral election, the formation of government may not be told fulfill the democratic norms. The most celebrated saying of democracy is, the people of the country are the owner of all power. If the election cannot be held fairly, the mentioned maxim of democracy will be valueless. The people of the country will get their voting right if the election process becomes fair and neutral. In this way the rights of the citizens to elect representatives will be meaningful.

Political accountability is the most important element of good governance. To ensure political accountability free and fair election is the must. The thirteenth amendment had played most important positive role for making the national election freely and fairly, being free from incumbent government interference. So, we can say that thirteenth amendment of Constitution had played crucial role for ensuring good governance in Bangladesh.

**Secondly:** Now it has become the most common scenario in almost all developing countries in the world that the ruling party misuses of power as well as public properties at the time of election to get the victory in favour of them. Some important democratic institutions like the EC, political party, voting right, press as well as media etc. are being hampered for this kind of manipulation in the election process. As the thirteenth amendment of Constitution provides intermediate caretaker government, there remains no scope of misuse of power and public properties by the ruling party during the general election. Because at the time of interim caretaker government, no party government can continue in power.

**Thirdly:** From now the government in power will have to think that if the terms of parliament is ended or dissolved, there will remain no power in the hand of the ruler automatically. In these circumstances, the citizens of the country will get the fullest opportunity to exercise their right of voting power and they can elect representatives as well as the government. Moreover, every government will be in a negative think to manipulate in the election process. So, there is a possibility that the government will now be more responsive. They will not practice the wrong deed like before.

When we analyze parliamentary election which were held from 1991 to 2011, we will see the role of caretaker government to perform free and fair election was praiseworthy in the whole country. For example parliamentary elections of fifth, seventh, eighth and ninth were held under caretaker government are considered as most successful election in the history of national election.

But 6<sup>th</sup> parliamentary election of 1996 (February) is considered as unsuccessful election which was held under elected party government.

As election under party government is always in questioned for its credibility, rigging and unlawful activities. So Caretaker government system is one of the finest inventions by our political parties for holding general election. It was a smart decision of time. However, none of loosing party has positive remarks about caretaker government after their defeat.

### **5.3 Fourteenth Amendment and Good Governance: A Review**

After critically analyzing the fourteenth amendment of the Constitution, we can say whether it plays role to establish good governance or not.

**Firstly:** Fourteenth amendment act had increased the numbers of reserved seat for women member in the parliament from 30 to 45. It is a good sign for empowering women. Although it is said in Bangladesh Constitution that all the citizens are equal by law and they will get equal opportunities, in reality all sections of society are not equal. It is argued that women in our country are in a disadvantaged situation compare to men. Their status is not equal and they are subordinate in the society. For this reason, the number of reserved seats of women in the parliament had been increased. The aim of that initiative

was to ensure a minimum representation of women in parliament. This will also increase women's participation in the national politics of Bangladesh.

Equity is one of the most important key elements of good governance. It means all men and women will have same opportunities to improve their welfare. Equality is supposed to be maintained by law.

So, we can say that to maintain the same and equal opportunities for improving women's life in the society as well as in the national politics; the number of reserved seat for women has been increased. This law of reserved seats will contribute to establish good governance in the country.

**Secondly:** This act had inserted a new Article 4A after Article 4. It is said in this new Article that the portraits of the President and the Prime Minister will have to preserve and display in government offices and diplomatic missions. It is not considered as essential article for ensuring good governance.

**Thirdly:** This amendment act had changed the Article 96(1). By this act the retirement age of Supreme Court judges had been increased from 65 to 67 years. It is not considered as necessary article for ensuring good governance. Rather it was hampering rule of law and created lack of trust between government and the opposition parties that time in Bangladesh politics. So, we can say that this Article goes against good governance.

People of opposition party had criticized the article in various ways. One of the criticisms is given below.

By increasing the age limit of Supreme Court Judges, they want to see their favored Judges as head of the caretaker government. The Law Minister of that time, Moudud Ahmed argued that twenty five Judges of Supreme Court would retire in the next four year and that would create a vacuum in the top tier of the judiciary. But this justification had not satisfied critics. This had satisfied only the partymen of Moudud Ahmed.

(Haroon Habib, 2004)

**Fourthly:** Article 148 of the Constitution had been amended by this act. It is said in the Article that the Chief Election Commissioner will administer the oath of the newly elected members of the Parliament. The AL as well as the Left parties alleged that the ruling party

inserted the article in the Constitution for their political interest. Both the sections of civil society and opposition had marked this Article as unnecessary and unwarranted. So, it is not considered as essential Article for good governance.

(Ibid, 2004)

**Fifthly:** This amendment had changed Article 129 of the Constitution. The retirement age of the Auditor-General had been increased from 60 to 65 by this act. This is not considered as necessary Article for good governance.

This amendment act had also amended Article 139 of the Constitution. The retirement age of the Chairman of Public Service Commission had increased from 62 to 65. This Article has no relation with good governance.

It is clear from the above discussion that maximum articles of fourteenth amendment had been amended for the political interest of the government of that time expect women reserved seats which will help to establish good governance indirectly.

## **5.4 Fifteenth Amendment and Good Governance: A Review**

In the amendment history of Bangladesh many amendments have been criticized. Among those amendments the fifteenth amendment of Constitution is perhaps the most debatable one in the post democratic era. Being the most recent amendment, the fifteenth amendment has frustrated many people of the country. The negative sides of this amendment are more than its positive sides.

(Asif Nazrul, 2014)

By analyzing the positive and negative side of 15<sup>th</sup> amendment of Bangladesh Constitution we can say whether it is helpful to establish good governance or not.

### **5.4.1 Positive Aspects of the Amendment**

#### **1) Grounds of floor crossing reduced:**

The 15th Amendment has restored the provision of the original Constitution. Now there are only two grounds of floor crossing: (a) if a member resigns from his party; and (b) if he votes in parliament against his party. Thus unlike before, now an MP is free to criticize

government policies; he will have right to abstain from voting being present in the parliament.

Now the Article 70 has become consistent with the basic principles of the Constitution. It is related with the two important things. These are freedom of expression and democracy. Before bringing the bill in the parliament, now the members of the parliament can oppose or support or abstain from voting any bill. Thus the basic democratic fabric that is freedom of thought as well as conscience has been fulfilled.

So, we can say that amendment of article 70 of the Constitution is a good sign for spreading democracy as well as good governance.

## **2) Improvement and protection of environment as well as bio-diversity:**

A new Article 18A has been inserted in the Constitution by this amendment act. This article has been provided to protect and improve the bio-diversity and environment. It states in specific that the state will improve and protect the environment. The state will also safeguard as well as preserve the natural resources of the state such as forests, bio-diversity, wildlife and wetlands. The state will take the above mentioned initiatives for the well-being of the present and future generation.

The above mentioned article will be helpful for citizen's welfare as well as will contribute to establish good governance indirectly.

## **3) Women empowerment:**

This Article specifies that the state will ensure equal opportunity for the women. It will also ensure women participation in all spheres of national life.

This amended article supports the element of good governance equity. Equity means all the citizens both male and female will get the same opportunities to maintain or improve their welfare or benefit. Equality is supposed to be maintained by law. So, it can be said that the amended article will be helpful to establish good governance.

#### **4) Democratic transition of power and protection the Constitutional sanctity**

Two new clauses in Article 7 have been inserted in the Constitution by this amendment act and it might have significant impacts. It has been declared in the Articles 7A that abrogation, suspension or repeal of the Constitution by any unconstitutional means as an offence of sedition.

This is definitely a good addition for protecting the constitutional sanctity and democratic transition of power as well as it is a good sign to establish good governance.

#### **5) Tribes etc.**

Article 23A has been brought by this amendment act to protect minority rights. Here it is said that the state will take steps to develop and protect the unique local culture and tradition of various ethnic groups.

(Abdul Halim, 2012)

This article will be helpful for tribes and it will contribute to establish good governance indirectly.

Besides these articles, the reserved seats of women have been increased from 45 to 50 which will empower women. It is a good sign that will contribute to establish good governance indirectly.

But it is not beyond criticism. The law for women reserved seats has demoralized the idealism and spirit embedded in some Articles of the original Constitution of 1972. These Articles are- 10, 28(1), 27, 19(1), and 28(2) of the main Constitution. It has been said that the reserved seats of women in the Parliament have been extended for another ten years only for strengthening stigmatic vote bank of the incumbent government. This initiative has no relation with true democracy or women representation.

**Others positive sides:** The positive aspects of this amendment are given in below:

- This act has reinstated the preamble as well as the four basic principles of state policy as like as the original Constitution of 1972.

- It has preserved and displayed of the portrait of Bangabandhu Sheikh Mujibur Rahman at all the government, semi-government offices both in home and abroad. Government and non-government educational institutions, autonomous bodies, statutory public authorities, embassies and missions of Bangladesh in abroad will also do this.
- This amendment act has incorporated of some historic speech of Bangabandhu Sheikh Mujibur Rahman; such as speech of on March 7, 1971, declaration of independence of March 25, 1971 and the proclamation of independence at Mujibnagar on 10 April, 1971.

The above mentioned articles are considered as positive aspects to someone. But these have been done only for the party interest not for the interest of the common people. So, these newly inserted articles are not considered as necessary Articles to establish good governance.

#### **5.4.2 Negative Aspects of the Amendment**

The negative aspects of the fifteenth amendment act are too many. The followings are the negative sides of this act:

##### **1) Abolishment of caretaker government**

By taking account of the relation between CTG, election and democracy; this controversy may be explained. The people of Bangladesh exercise their voting rights once every five years and thus they take part in democracy. This is the reality of our country. A fair counting election is a very important for every citizen and also for political organizations. The caretaker government had gained reputation in home and abroad for ensuring free and fair election and also for significant improvement of law and order situation during their tenure. They had taken various initiatives such as pro-people legal reforms in the areas of election administration ensure human rights and anti-corruption drives. These initiatives had played role in good governance. So, the abolishment of caretaker system by this amendment act has shocked most of the people, citizen groups and political entities of the country. It is considered as a barrier on the way of establishing good governance.

## **2) Repeal the rights of the citizens**

Referendum is recognized in Europe and also in America. The necessity of referendum is getting increasingly recognized in the different countries of Europe and America. On the contrary, the fifteenth amendment act of Bangladesh Constitution has repealed the rights of the citizens by deleting the provisions of referendum. So, there remains no right of participation of people in amending constitution.

Thus, by deleting the provisions of referendum on constitutional amendment, the democratic rights of the people have been cancelled. Political and bureaucratic accountability are two important element of good governance in a democratic system. They are related with each other. Because without ensuring political accountability, bureaucratic accountability cannot be ensured. Transparency is also related with accountability. Again political accountability depends on the acceptability of political system by the people and regular election is the must to legitimize the exercise of political power. In indirect democracy people participate in political system by exercising their voting power and thus play role to maintain political accountability of the government. Referendum is mechanism of voting system by which people give their opinion in most important matters of a state. So the deletion of the provisions of referendum by 15<sup>th</sup> amendment is considered as hindrance on the way of good governance.

## **3) Illegalizing the amending power for authority of future parliament**

The fifteenth amendment has introduced Article 7B. By illegalizing the power and authority of future parliament in amending nearly one third of the Articles of the Constitution, it has created new controversy. It is said in this Article that the authority of future Parliament will not amend the preamble, fundamental rights, fundamental principles, as well as the laws which are related to the basic structures of the Constitution. Here it is added that the mentioned above Articles will not be changeable by way of insertion, substitution, modification, repeal or by any other means. Thus this provision has even shunned the scopes for future parliament to restore the 1972 Constitution.



#### **4) Undemocratic act**

This amendment act is also considered as undemocratic because one particular parliament should not repress or restrain the authority of the equally powerful future parliaments in changing Constitution. It is also considered as a barrier on the way of establishing good governance.

#### **5) Contradictory and confusing act**

A number of provisions of the martial law regimes have also been retained by the fifteenth amendment act. The provisions of the martial law regimes are tenure, mode of removal and post-retirement opportunities of the judges of the superior court. The provisions in regard to religious identity of the state are more contradictory and confusing.

#### **6) Anti-democratic laws**

In martial law regimes there was no democracy in our country. The 15<sup>th</sup> amendment has repressed a number of laws of the martial law regimes and which go against democracy. Citizens of Bangladesh do not support these provisions. So, we can say maximum provisions of the 15<sup>th</sup> amendment go against democracy as well as good governance and are considered as barrier on the way of establishing good governance.

(Md. Abdul Halim, 2012)

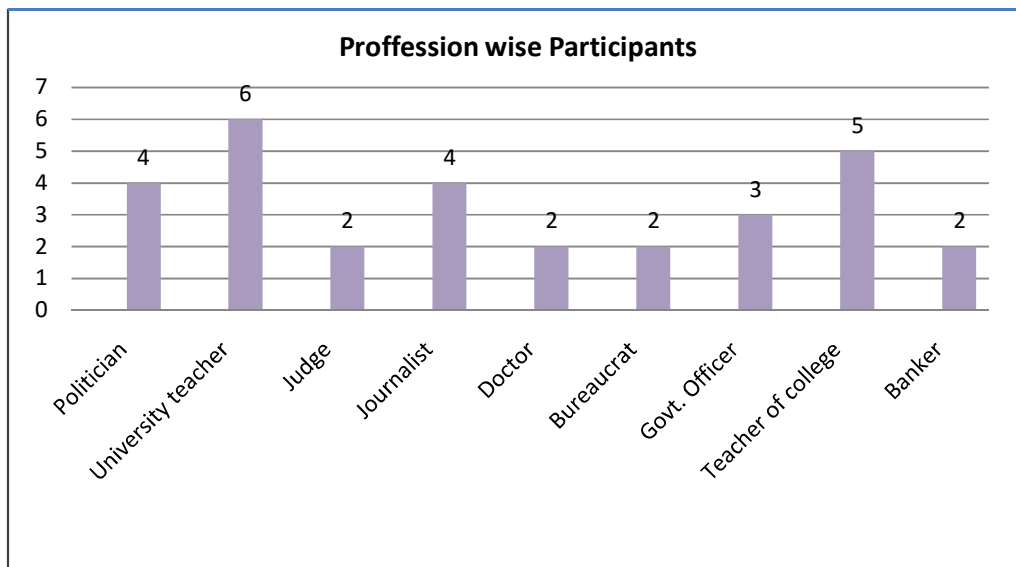
## **Chapter 6. An Analysis of Field-based Study**

## 6.1 Respondents-related Descriptive Analysis

In this study, eight categories of people from different professions are taken for interview and survey. The designations of these eight categories people are Politician (High level), Teacher (University and College), Judge, Journalist, Doctor, Bureaucrat, Govt. officer and Banker. The numbers of professionals are shown in the table given below:

<u>Professions</u>	<u>Frequency</u>
Politician	4
University teacher	6
Judge	2
Journalist	4
Doctor	2
Bureaucrat	2
Govt. Officer	3
Teacher of college	5
Banker	2
<b>Total</b>	<b>30</b>

**Table 1:** Professions of Respondent

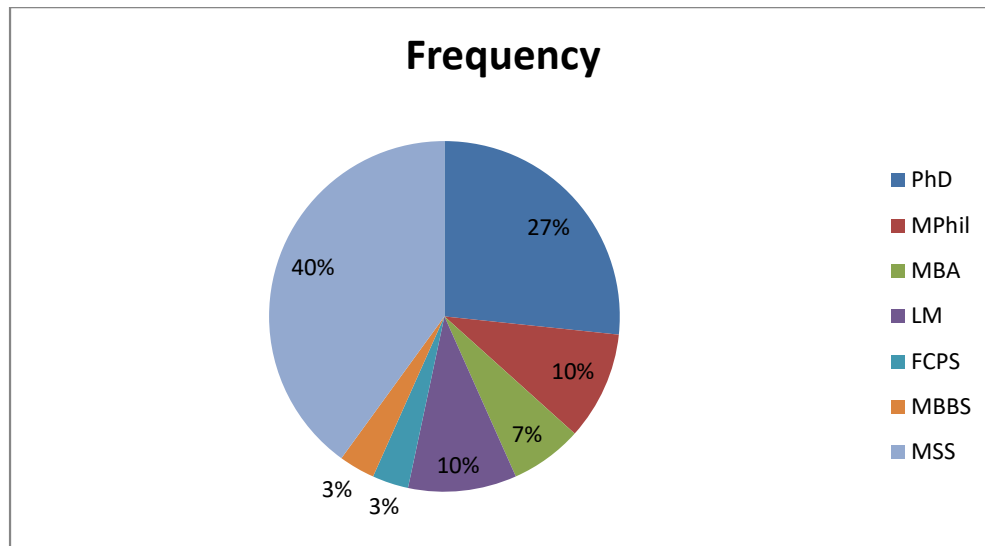


**Figure 2.**Designation of the Respondents

Seven categories of degree holders have been taken in this study. As the topic of the study is new and demands politically conscious people with highest educational qualification, I have taken such kind of persons as respondents. In spite of having highest educational qualification, I have avoided the respondents who have lack of knowledge about my thesis topic.

Level of education of Respondents	Frequency
Ph. D.	9
M. Phil.	3
M. B. A.	2
L. M.	3
F. C. P. S.	1
M. B. B. S.	1
M. S. S. (Political Science)	11
<b>Total</b>	<b>30</b>

**Table 2:** Educational Status of Respondents



**Figure 3.** Educational Status of Respondents

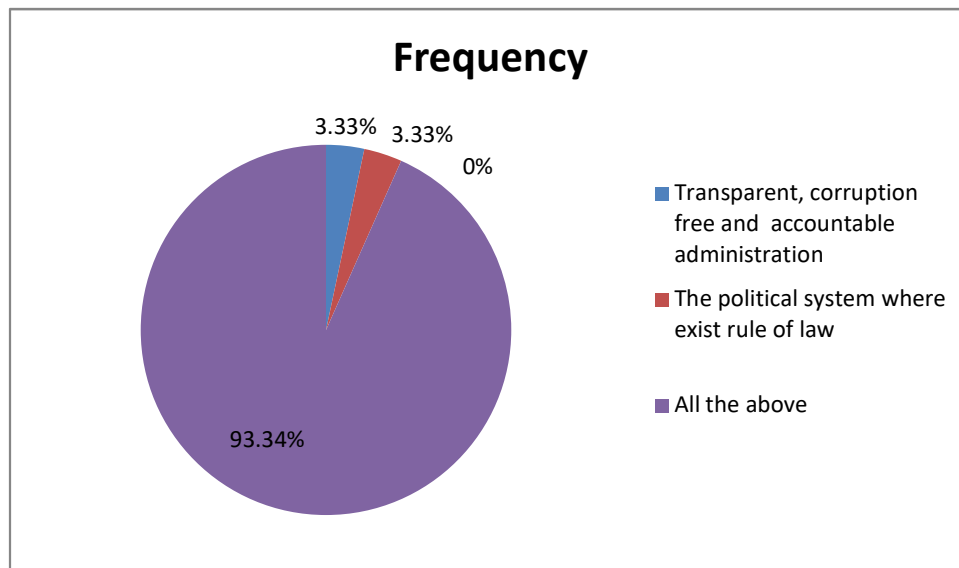
## 6.2 Analysis the Questionnaire of the Study

To perform my study I have used the following questionnaire.

### Q.No-1: What do you mean by good governance?

Category of Response	Frequency	Percentage
Transparent, corruption free and accountable administration	1	3.33%
The political system where exist rule of law	1	3.33%
The political system where remain good relationship between ruler and the ruled	0	0.0%
All the above	28	93.34%
<b>Total</b>	<b>30</b>	<b>100%</b>

**Table 3:** Meaning of good governance

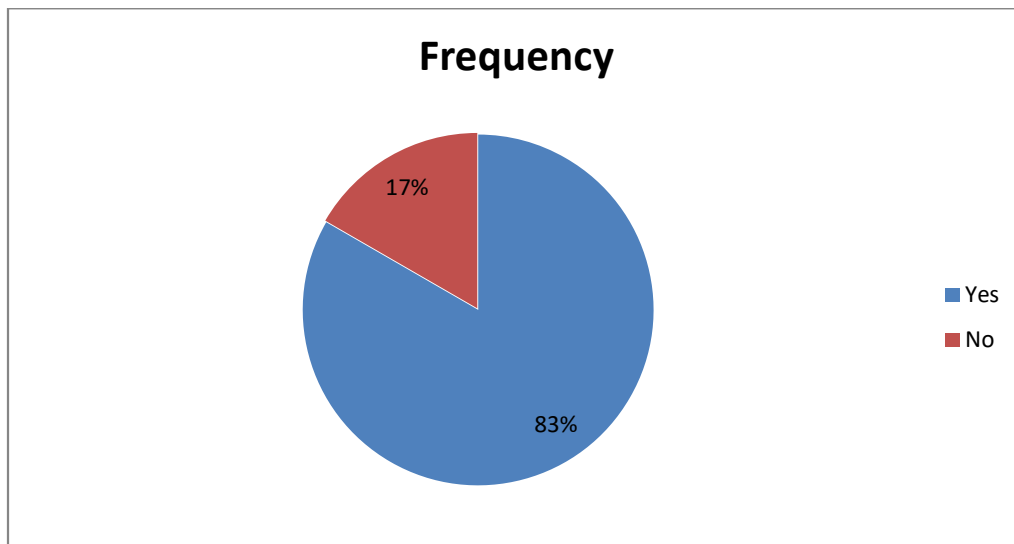


**Figure 4.**Meaning of good governance

**Q.No-2: We know that Constitution is the supreme law of a country. Do you think that by amending Constitution and its proper utilization good governance can be established in Bangladesh?**

Category of Response	Frequency	Percentage
Yes	25	83%
No	5	17%
<b>Total</b>	<b>30</b>	<b>100%</b>

**Table 4:** Amendment of Constitution and its proper utilization

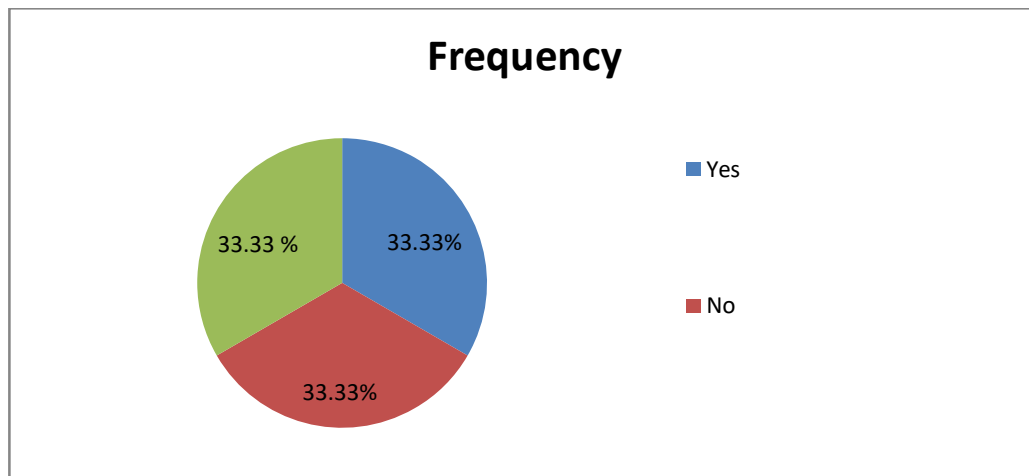


**Figure 5.** Amendment of Constitution and its proper utilization

**Q.No-3: Four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, & 15<sup>th</sup>) of Bangladesh Constitution have been done from 1991 to 2011. Do you think the above mentioned amendments have played role to establish good governance?**

Category of Response	Frequency	Percentage
Yes	10	33.33%
No	10	33.33%
Some have played role and some act as hindrance on the way of establishment of good governance	10	33.33%
<b>Total</b>	<b>30</b>	<b>100%</b>

**Table 5 :** Four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, &15<sup>th</sup>) of Bangladesh Constitution and their role to establish good governance

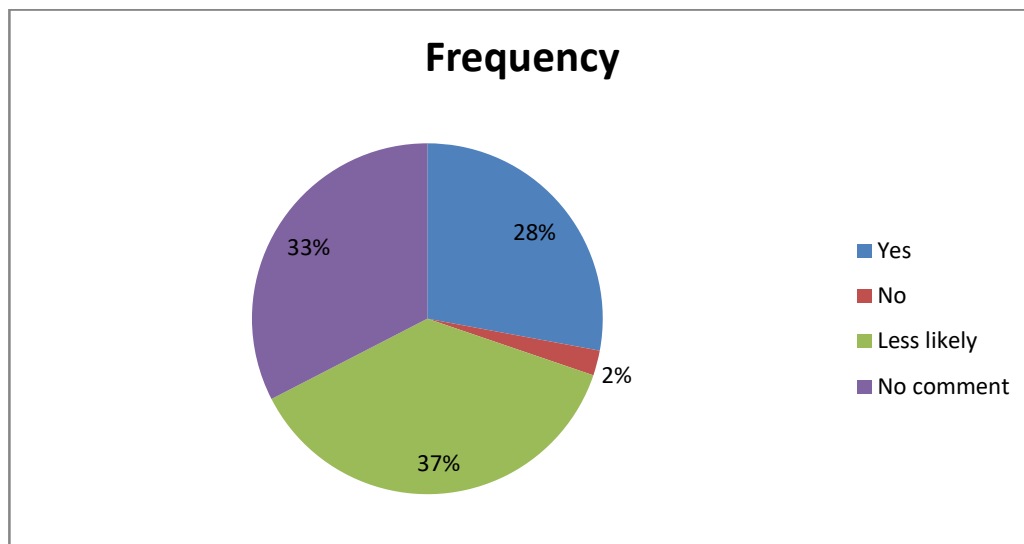


**Figure 6. Four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, &15<sup>th</sup>) of Bangladesh Constitution and their role to establish good governance**

**Q.No-4: By the 12<sup>th</sup> amendment of Bangladesh Constitution there re-introduced parliamentary system of government. Do you think that amendment has played role to establish good governance in Bangladesh?**

Category of Response	Frequency	Percentage
Yes	12	28%
No	1	2%
Less likely	16	37%
No comment	14	33%
<b>Total</b>	<b>30</b>	<b>100%</b>

**Table 6:** Re-introduction of parliamentary system of government and its role to establish good governance in Bangladesh



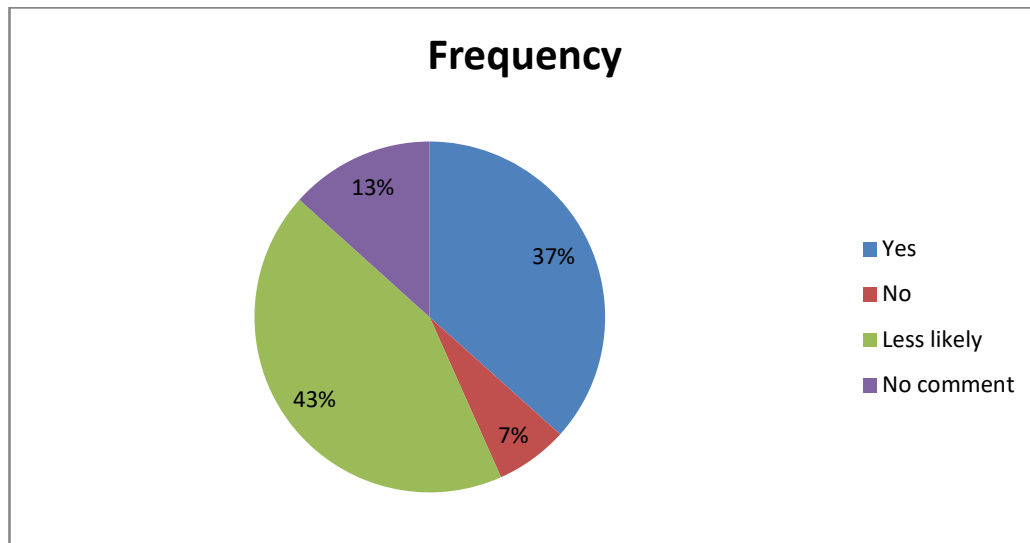
**Figure 7.** Re-introduction of parliamentary system of government and its role to establish good governance in Bangladesh



**Q.No-5: By the 13<sup>th</sup> amendment of Constitution there introduced non-party Caretaker government in Bangladesh. Do you think that the Caretaker government had played role to establish good governance?**

Category of Response	Frequency	Percentage
Yes	11	37%
No	2	7%
Less likely	13	43%
No comment	4	13%
<b>Total</b>	<b>30</b>	<b>100%</b>

**Table 7:** Introduction of non-party Caretaker government in Bangladesh and its role to establish good governance

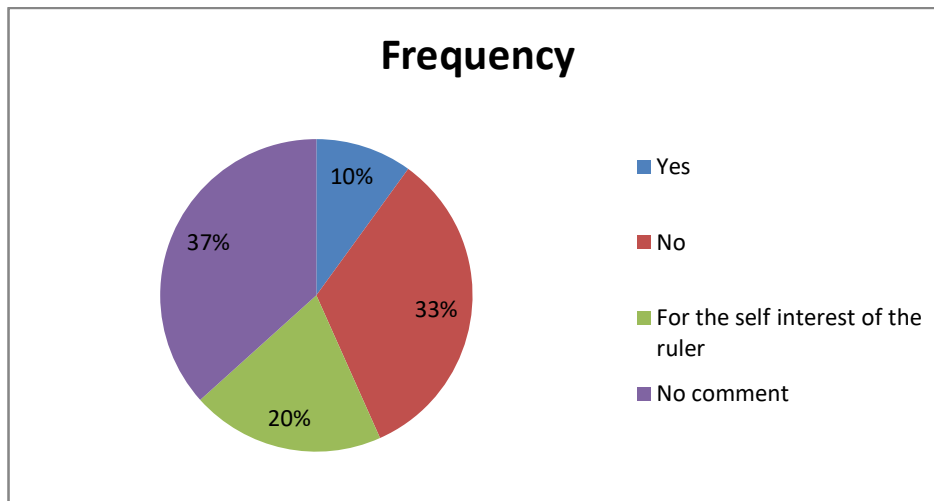


**Figure 8.** Introduction of non-party Caretaker government in Bangladesh and its role to establish good governance

**Q.No-6: By the 14<sup>th</sup> amendment of Bangladesh Constitution there increased the period of some constitutional post such as the chairman of PSC and the chief justice of Supreme court. Do you think that the initiative has played any role to establish good governance in Bangladesh?**

Category of Response	Frequency	Percentage
Yes	3	10%
No	10	33%
For the self interest of the ruler	6	20%
No comment	11	37%
<b>Total</b>	<b>30</b>	<b>100%</b>

**Table 8:** Fifteenth amendment of Bangladesh Constitution and its role to establish good governance in Bangladesh

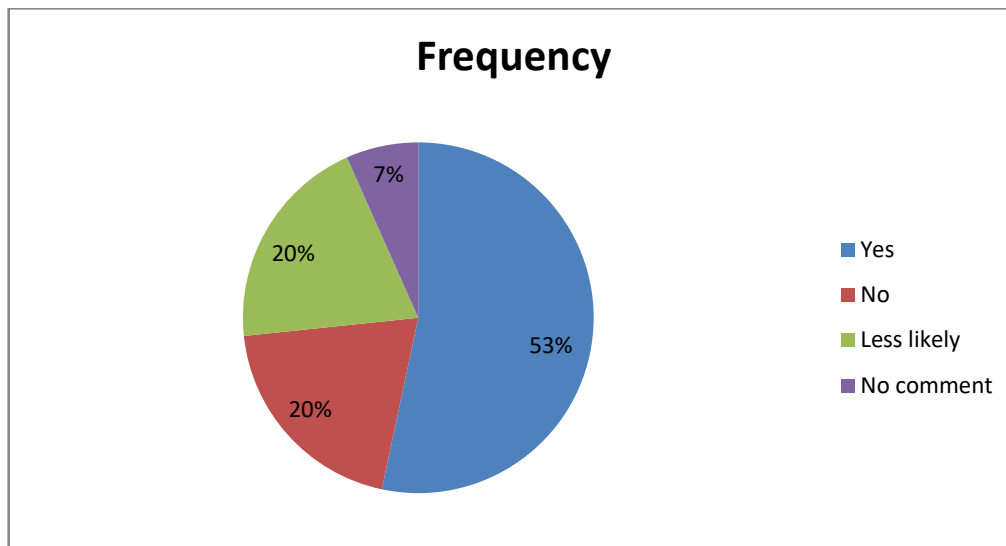


**Figure 9.** Fourteenth amendment of Bangladesh Constitution and its role to establish good governance in Bangladesh

**Q.No-7: The reserved seats of women have been increased in the parliament by the 14<sup>th</sup> and 15<sup>th</sup> amendment of Constitution. Do you think that initiative has played any role to establish good governance in Bangladesh?**

Category of Response	Frequency	Percentage
Yes	16	53%
No	6	20%
Less likely	6	20%
No comment	2	7%
<b>Total</b>	<b>30</b>	<b>100%</b>

**Table 9:** Increase of the reserved seats of women and its role to establish good governance in Bangladesh

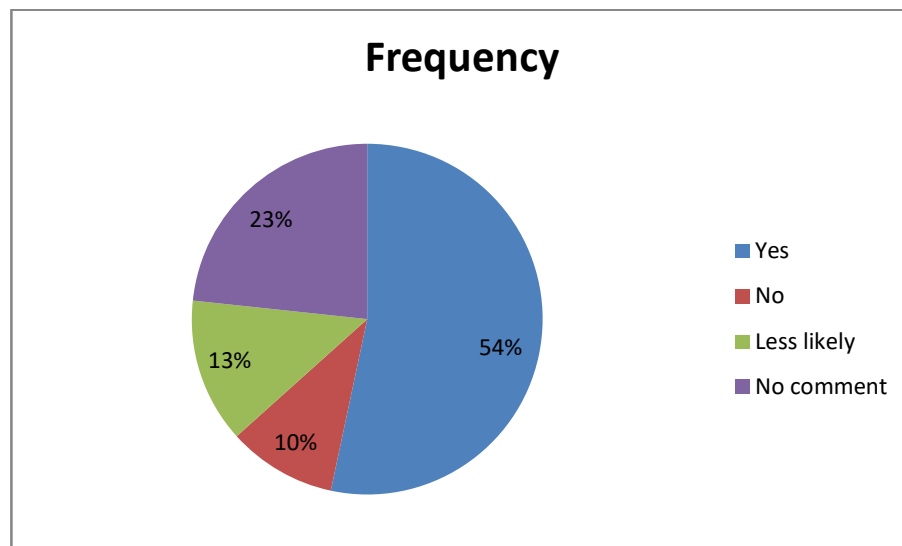


**Figure 10.** Increase of the reserved seats of women and it's role to establish good governance in Bangladesh

**Q.No-8: We know that the Caretaker government system has been cancelled by the 15<sup>th</sup> amendment of Constitution. Do you think that will play or that has played negative role to establish good governance in the reality of Bangladesh?**

Category of Response	Frequency	Percentage
Yes	16	54%
No	3	10%
Less likely	4	13%
No comment	7	23%
<b>Total</b>	<b>30</b>	<b>100%</b>

**Table 10:** The caretaker government system has been cancelled by the 15th amendment of Constitution and its positive or negative role to establish good governance in the reality of Bangladesh.

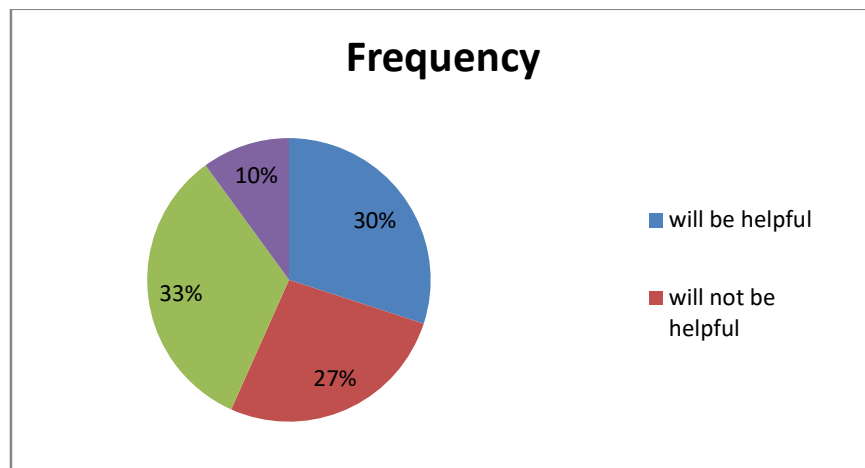


**Figure 11.** The caretaker government system has been cancelled by the 15<sup>th</sup> amendment of Constitution and its positive or negative role to establish good governance in the reality of Bangladesh.

**Q.No-9: The fundamental principles of state policy have been changed by the 15<sup>th</sup> amendment of Constitution. Do you think that it will play helpful role or it has played negative role to establish good governance in Bangladesh?**

Category of Response	Frequency	Percentage
Will be helpful	9	30%
Will not be helpful	8	27%
Will be helpful partially	10	33%
Will play obstructing role	3	10%
<b>Total</b>	<b>30</b>	<b>100%</b>

**Table 11:** Change of the fundamental principles of state policy by the 15th amendment of Constitution and its positive or negative role to establish good governance in Bangladesh

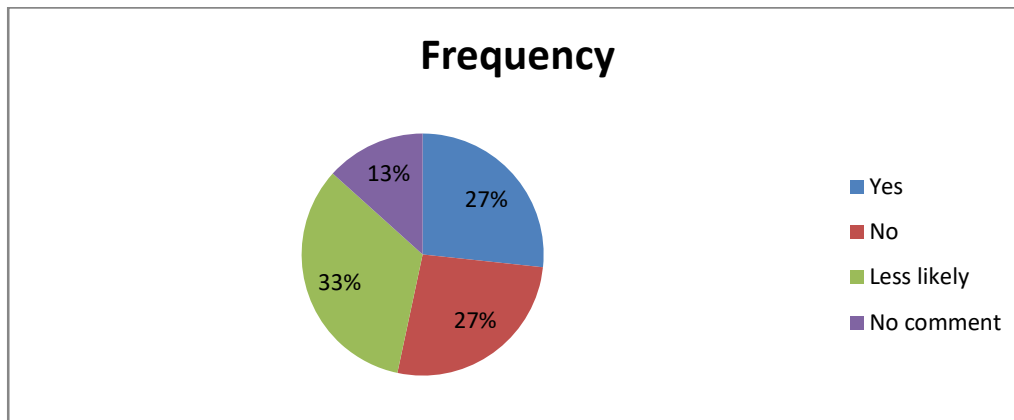


**Figure 12.** Change of the fundamental principles of state policy by the 15<sup>th</sup> amendment of Constitution and its positive or negative role to establish good governance in Bangladesh.

**Q.No-10: Do you think that the four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>& 15<sup>th</sup>) of Bangladesh Constitution which have been done from 1991-2011; maximum of it has been amended for the self interest of the ruling class?**

Category of Response	Frequency	Percentage
Yes	8	27%
No	8	27%
Less likely	10	33%
No comment	4	13%
<b>Total</b>	<b>30</b>	<b>100%</b>

**Table 12:** Four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup> & 15<sup>th</sup>) of Bangladesh Constitution from 1991-2011 and its contribution



**Figure 13.** Four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup> & 15<sup>th</sup>) of Bangladesh Constitution from 1991-2011 and its contribution.

### 6.3 An overall analysis of the data got from field

**First question** of my survey as well as interview is about the meaning of good governance. Among the 30 respondents, 28 respondents have given very nice and correct answer of the definition of good governance. The percentage is 93.34%.

**Second question** of the survey is about the amendment of Constitution and its proper utilization. 83% participants have given the answer 'Yes' and rest of the persons have given the answer 'No'. So, by the answer of the question it is clear that by amending Constitution and its proper utilization good governance can be established in Bangladesh. Because Constitution is the supreme law of a state and people must have to obey this law.

**Third question** is about four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup> & 15<sup>th</sup>) of Bangladesh Constitution and its role to establish good governance. If we analyze the answer of the question, we see that 33.33% respondents have given the answer 'Yes', 33.33% respondents have given the answer 'No' and 33.33% respondents have given the answer some has played role and some acts as hindrance to establish good governance. By analyzing the above data it is clear four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup>) of Bangladesh Constitution do not absolutely play the positive role to establish good governance rather some act as hindrances to establish good governance. It has been clear from the amendment history of Bangladesh Constitution.

**Fourth question** is about the re-introduction of parliamentary system of government and its role to establish good governance in Bangladesh. In this question 37% respondents have given the answer 'Less likely, 33% people do not give their opinion, 28% have given the answer 'Yes', 2% have given the answer 'No'. So, by analyzing the above data it is can be said that the 12<sup>th</sup> amendment of Bangladesh Constitution has played positive role to establish good governance in Bangladesh. We know it is impossible to establish good governance without democracy.

**Fifth question** is about the introduction of Caretaker government in Bangladesh and its role to establish good governance. In this question, 37% respondents have given the answer 'Yes', 7% have given the answer 'No', 43% have given the answer 'Less Likely' and 13% of respondents have not given their opinions about the question. So, by analyzing the data it can be said that the non-party Caretaker government had played role to establish good governance in Bangladesh. Now it is high time to re-think of the

Caretaker government in the political reality of Bangladesh. In the period of Caretaker government people had participated in democracy indirectly, exercising their voting power freely. Three successive elections had been held under the government which were praise-worthy both in home and abroad.

**Question six** is about the fourteenth amendment of Bangladesh Constitution and its role to establish good governance in Bangladesh. In this question, 10% respondents have given the answer 'Yes', 33% have given the answer 'No', 20% have given the answer 'for the self interest of the ruler' and the 37% respondents have not given their opinion. So, from the result of the survey and interview it can be said that the increase of the period of some constitutional post such as the chairman of PSC and the chief justice of Supreme Court by fourteenth amendment could not play any role to establish good governance in Bangladesh. Rather it is said that it had been done for the self interest of the government of that time.

**Question seven** is about the reserved seats of women in the parliament. In this question, 53% respondents have given the answer 'Yes', 20% have given the answer 'No', 20% have given the answer 'Less likely' and 7% of respondents have not expressed their opinions. By analyzing the above data it can be said that the reserved seats of women have been increased in the parliament by the 14<sup>th</sup> and 15<sup>th</sup> amendment of Constitution and we think that initiative has played important role to establish good governance in Bangladesh. In the interview, Parliament members of reserved seats have supported this strongly. This is a part of women empowerment and women empowerment is a part of good governance.

**Question eight** is about the abolishment of the Caretaker government. In the question, 54% of respondents have given the answer 'Yes', 10% have given the answer 'No', 13% have given the answer 'Less likely' and 23% have not given their opinion. From the data it can be said that the cancellation of Caretaker government by the 15<sup>th</sup> amendment of Constitution has played obstructing role on the way of establishing good governance in the reality of Bangladesh. In the interview and survey, total respondents from BNP have given positive opinion on behalf of Caretaker government. On the other hand, total respondents from AL have given negative opinion on the question of Caretaker government. It seems to me very funny. From the political history of past it is fully clear. When BNP government was in power, they were against Caretaker government and



opposition party AL was the main supporter of it. Again when AL government is in power, the opposition party BNP is the main claimer of Caretaker government.

**Question nine** is about the change of the fundamental principles of state policy. In this question, 30% respondents have given the answer ‘will be helpful’, 27% have given the answer ‘will not be helpful’, 33% have given the answer ‘will be helpful partially’ and 10% have not given any comment. So, from the data it can be said that the change of the fundamental principles of state policy by the 15<sup>th</sup> amendment of Constitution will play positive role to establish good governance in Bangladesh.

**Question ten** is about the four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup> & 15<sup>th</sup>) of Bangladesh Constitution from 1991-2011. In this question, 27% respondents have given the answer ‘Yes’, 27% have given the answer ‘No.’ 33% have given the answer ‘Less likely’ and 13% of respondents have not expressed their opinion. So from the data, it can be said that four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>) of Bangladesh Constitution from 1991 to 2011, sometimes play role to establish good governance and sometimes act as hindrances on the way of establishing good governance. For example, seventh amendment of Constitution is considered as impediment on the way of democracy or good governance. On the other hand, twelfth amendment of Constitution is considered as positive to establish good governance in Bangladesh.

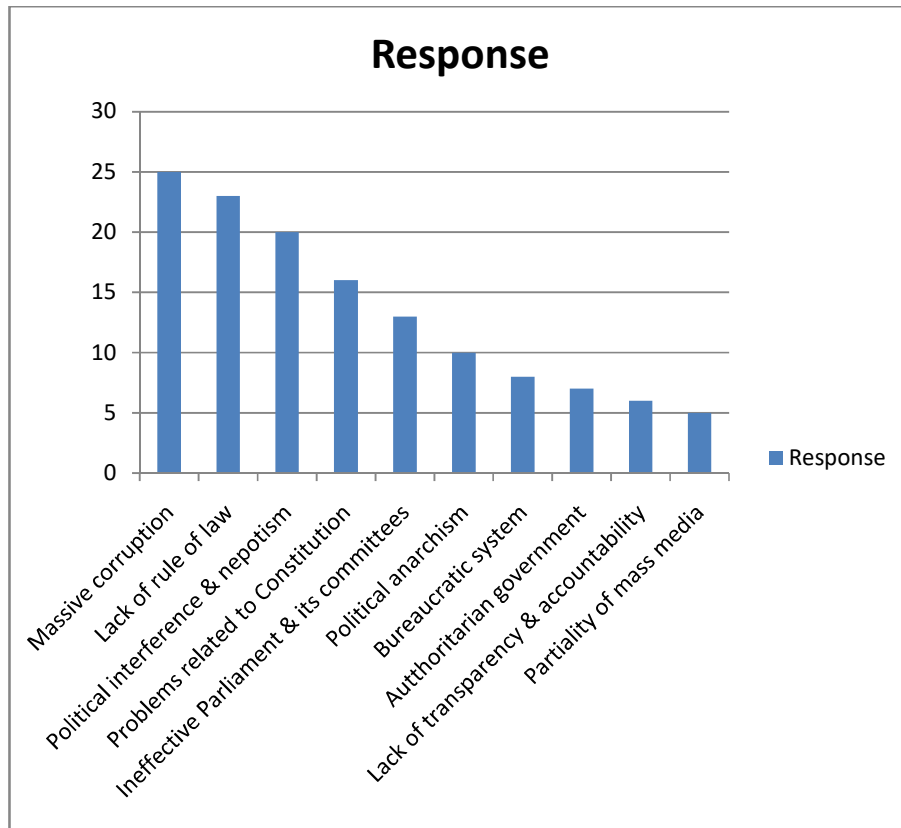
**Q.No-11: What are the things which you consider as hindrance on the way of establishing good governance in Bangladesh?**

**Question eleven** is an open-ended question. In this question, I have asked the 30 participants that which things they consider as hindrance on the way of establishing good governance in Bangladesh. Maximum participants have identified corruption as number one problem on the way of good governance. They have identified weak enforcement of law as well as lack of rule of law as another major problem. Political interference and nepotism are also considered as major problems to the respondent. The respondents have identified so many problems on the way of good governance. Here I would like to present these problems in a table.

<b>Obstacles</b>	<b>Responses</b>
Massive corruption	25 out of 30 respondents
Weak enforcement of law & absence of rule of law	23 out of 30 respondents
Political interference & nepotism	20 out of 30 respondents
Amendment of Constitution for the party interest and Article 70 of Bangladesh Constitution as well as not to establishment the post of Ombudsman	16 out of 30 respondents
Controversial parliamentary elections & ineffective parliament as well as weak parliamentary committees	13 out of 30 respondents
Political anarchism & absence of democratization in the political parties	10 out of 30 respondents
Bureaucratic system , politicization in administration and education sector	8 out of 30 respondents
Authoritarian government system and the supreme authority of the PM	7 out of 30 respondents
Absence of transparency and accountability	6 out of 30 respondents
Partiality of mass media and absence of free flow of information and freedom of speech	5 out of 30 respondents
Politics centralized on family and lack of strong, honest and visionary leadership	4 out of 30 respondents
Absence of more strong, powerful and independent judiciary	4 out of 30 respondents
Weak constitutional institution	3 out of 30 respondents
Lack of patriotism	3 out of 30 respondents
Lack of public consciousness	2 out of 30 respondents
Lack of moral education	2 out of 30 respondents

**Table 13:** Summary of the problems identified by respondents in the survey and interview

Here I would like to present top ten problems graphically which have been identified by the respondents in the survey and interview:



**Figure 14. Top ten problems which have been identified by the respondents in the survey and interview**

#### **Analysis of the data of the above mentioned table:**

##### **Massive corruption**

Among the 30 participants 25 have identified corruption as number one problem on the way of good governance. In the interview, a Member of Parliament of reserved seat has identified the corruption of lower level police members and land officer as problem. It is a number one problem in our country which wastes national resources and causes social inequities. Corruption is a big impediment in the way of good governance in our country. International as well as regional organizations have marked corruption as major problem which is a barrier to good policy- making. According to Transparency International's corruption perception index report of 2020, Bangladesh has taken 26<sup>th</sup> position among 180 corrupted countries in the world. There is hardly found any public office where there is no corruption in our country. People of Bangladesh exploited by corruption at political and administrative levels.

### **Weak enforcement of law & absence of rule of law**

Weak enforcement of law & absence of rule of law are two problems which have been marked by 23 respondents. There are a lot of laws in the law books in our country but their enforcement are very weak and there is absence of rule of law in the country. So, corruption is increasing in the country day by day. Weak and fragile state institutions are the causes of poor rule of law and it is due to undemocratic practice.

### **Political interference & nepotism**

Political interference & nepotism are two major problems identified by 20 participants in the survey as well as interview. Politicians of two major political parties (AL and BNP) have also supported this. In the interview, a Member of Parliament from AL has said that it would be tough to establish good governance if political interference would not be stopped fully. Administration is always influenced by the party in power in Bangladesh. So, any free and fair decisions cannot be taken by the administration. Nepotism is another problem in our country. The rulers of every regime give privileges to their family members and relatives on public resources. For this reason, nepotism is widespread and the administration is unfair.

### **Article 70 of Bangladesh Constitution & other problems related to Constitution**

There are some problems about our Constitution which have been identified by 16 respondents in the survey and interview. These are amendment of Constitution for the party interest, Article 70 of Bangladesh Constitution as well as not to establishment of the post Ombudsman. In the amendment history of Bangladesh we have seen that maximum amendments have been done for the party interest. Article 70 of Bangladesh Constitution is considered as undemocratic Article to the scholars. It has gone against the fundamental right of citizens that is freedom of expression. Governments of all regimes have told that they will appoint the post of Ombudsman but they have not given the appointment of this post. In the survey teachers of public university and government colleges supported this strongly.

### **Controversial parliamentary elections, ineffective parliament and parliamentary committees**

The parliamentary elections which have been held in Bangladesh are not beyond debate. So, the result of national election is not warmly received by the opposition political parties. After election they boycott the result of election. They do not go to Parliament. The executive is not accountable to the Parliament. Legislative control over executive is decreasing day by day. Moreover, the executive is becoming more powerful. The parliamentary committees are not strong and effective. In the survey, 13 participants identified the controversial parliamentary elections, ineffective parliament and parliamentary committees as problem on the way of good governance in Bangladesh.

### **Political anarchism & absence of democratization in the political parties**

The political environment of Bangladesh is not sound and fair. A major weakness of democracy of Bangladesh is the fragmentation of the existing political parties. The inter relationship between the political parties are not good. There remains inter conflict among the political parties. They do not respect the opinions of each other. So, we can say that there remains the absence of democratization in the political parties. Political anarchism is a common scenario in Bangladesh. In the survey 10 respondents have marked political anarchism & absence of democratization in the political parties as problem.

### **Bureaucratic system, politicization in administration**

Bureaucratic system, politicization in administration and education sectors have been marked as problems by the 8 respondents in the survey. The bureaucratic system of Bangladesh is old that has been inherited from the British colonial rulers. The whole system runs on an outdated legal structure. The capacity of policy implementation of bureaucracy is very poor. It is not transparent and accountable to the people. The bureaucrats are highly politicized in our country. This high level of politicization has lower down the quality of administration. Our education sectors are not beyond this. Teachers and students of different education institutions are also politicized which hamper the quality of education.

### **Authoritarian government system and the supreme authority of the PM**

Authoritarian government system and the supreme authority of the PM are two problems marked by 7 participants in the survey. Constitutional democracy had been restored by the twelve amendment of Constitution. But in the name of democracy the Prime Minister's autocracy has deployed in the country. It is a matter of great concern.

### **Absence of transparency and accountability**

Absence of transparency and accountability of government and government institutions have been identified as problem by 6 respondents. Accountability and transparency is the cornerstone of good governance. Due to the absence of transparency and accountability the people and the politicians do not trust each other. They have lost confidence in the administration and legal system. The government officers of different government institutions are not accountable and transparent to the people. In our country, transparency in governance has become poor. Accountability of government is weak which is considered as barrier on the way of good governance.

### **Partiality of mass media and absence of free flow of information and freedom of speech**

Partiality of mass media and absence of free flow of information and freedom of speech are three problems identified by 5 respondents in the survey. In order to establish good governance in a country the impartial mass media can play important role. They can keep role in making public opinion and eradicate corruption. There are a lot of print and electronic media in Bangladesh but maximum of it is partial. The media does not always act responsibly. The quality of news reporting is weak and inadequate. The Bangladesh television and the radio are totally controlled by the government and only serve those in power. There is no criticism of the government or government action in these state controlled media. Some private media and their journalists are the agent of particular political party. So their presented news is also partial. There is no freedom of speech of the common people that goes against good governance.

### **Politics centralized on family and absence of strong, honest and visionary leadership**

Politics centralized on family and absences of strong, honest and visionary leadership are two problems which have been marked as problem by 4 participants in the survey. A great obstacle for our democracy and good governance is the hereditary nature of leadership developed in our party system. This has been happened in the two most important political parties of Bangladesh such as AL and BNP. For example, Khaleda Zia has become leader as she is the wife of late President Ziaur Rahman and Sheikh Hasina because of her father. The leaders of these two political parties are now permanently settled in their respective positions. So, all the possibilities of emergence of any new leadership in their respective parties have been cancelled. There is a lack of strong, honest and visionary leadership in the country. The qualifications of the most of the leaders are poor. These poor qualifications of the leadership of third world countries like Bangladesh are responsible for not establishing good governance there.

### **Absence of more strong, powerful and independent judiciary**

Absence of more strong, powerful and independent judiciary is identified as problem by the 4 respondents. Due to political interference our judiciary is not strong and independent. The judges of Supreme Court are appointed politically. There remains crisis of judges in the lower court. In the survey, judges of lower court have supported this strongly.

### **Weak constitutional institutions**

Weak constitutional institution is another problem marked by 3 participants in the survey. Constitutional institutions of Bangladesh such as PSC, EC and ACC are not strong to do their duties fairly. It is an impediment on the way of good governance.

### **Lack of patriotism**

3 participants of survey have identified lack of patriotism among the common people, politician and bureaucrats as problem. A patriot cannot do any harm for the country. If every citizen becomes patriot, corruption of the country will remove soon and it would be easy to establish good governance in the country.

### **Lack of public consciousness**

The common people of our country are not conscious. It is one kind of barrier on the way of good governance. People's consciousness is perhaps one of the most important things which can play role to establish good governance. In the survey 2 respondents have identified lack of public consciousness as problem.

### **Lack of moral education**

Lack of moral education is a problem marked by 2 participants in the survey. A morally educated person is an asset for the country who can play role to establish good governance in the country. So, moral education must have to be compulsory in every school from primary level.

### **Q.No.-12: What are your recommendations to establish good governance in Bangladesh?**

Question twelve is also an open-ended question. In this question, I have asked the participants that which things they will suggest to establish good governance in Bangladesh.

In the survey as well as interview thirty people of different professions have given many recommendations or suggestions to establish good governance in Bangladesh which I have presented in the seven chapter of this thesis.

## **6.4 Summary of findings**

Summary of the findings got from the study are given in below:

1. By amending Constitution and its proper utilization good governance can be established in Bangladesh. In the interview and survey 83% participants have given their positive answer regarding this.



2. Four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup>) to the Bangladesh Constitution within 1991 to 2011 do not absolutely play the positive role to establish good governance; rather some act as hindrances to establish good governance.
3. Some amendments had been done for the self interest of the government of different regimes.
4. Caretaker government had played positive role to establish good governance in Bangladesh in the reality of Bangladesh.
5. The abolishment of Caretaker government by the 15<sup>th</sup> amendment of Constitution has played negative role on the way of establishing good governance.
6. The enhancement of women reserved seats in the Parliament is considered as good sign for good governance.
7. Corruption is the number one impediment on the way of good governance in Bangladesh.
8. Absence of rule of law is the second major barrier on the way of good governance.
9. The reformation of the Constitution is necessary now.
10. Only the strong political good will of the ruler of the country can ensure good governance in Bangladesh.

## **Chapter 7. Recommendations and Conclusion**

## **7.1 Recommendations**

From the findings of both primary and secondary data, this study provides a set of recommendations for the successful transition to good governance and the development of constitutionalism in Bangladesh.

### **1. Strong political good will**

In order to establish good governance and the constitutional development of Bangladesh strong political good will is the most essential thing. Pragmatic solutions need political will with longer time-frame with massive support from various stakeholders. Small innovation solutions with greater impact at small cost will readily help facilitate improvements in human development and democratization.

### **2. Enactment of Rule of law**

Enactment of rules and laws and establishment of appropriate mechanisms that positively affect investment climate, promote growth, equity and justice, and reduce poverty are to be looked into. Safeguarding the disadvantaged and vulnerable groups and promoting women's status are very important. If the public representatives, bureaucrats and judiciary put rules and regulations aside and start ruling by using political office for personal gains, law will be meaningless for the common people. To ensure the rule of law, law should be applied strictly irrespective of political allegiance, castes, creed, religion and regions. So, for ensuring good governance in Bangladesh, we should establish rule of law, not the rule of man or muscle power. Nepotism should not practice by the administrators and politicians.

### **3. Reformation of rules of business of state**

The rules of business existing in the country is not enough good to maintain the welfare of the country. So, it is most essential thing to reform rules of business of country quickly and strongly. In the survey and interview, professors of public university have given importance on the reformation of rules of business of the country quickly.

#### **4. Reformation of Constitution**

To ensure good governance in Bangladesh re-formation of Constitution is necessary. In our Constitution, there are a few debatable Articles that are inappropriate with the fundamental fabric of democracy. For example Article 39(1) of the Constitution says about the basic rights of the citizens such as freedom of thought, freedom of conscience etc. On the contrary, Article 70 of our Constitution says if the Member of Parliament gives vote against his party, he or she will lose his membership in the Parliament. So, we see that Article 70 goes against the two fundamental principles of the Constitution that is the freedom of expression and democracy. Now it is essential to amend the Article 70 of the Constitution so that freedom of thought and conscience can be established and maintained. Here I would like to suggest that the Article 70 should be changed in a way where the members of the Parliament will be given the right to support or to oppose any bill before presenting it to the Parliament. Lastly it can be said that due to strengthen democracy as well as to establish good governance in our country the parliament will soon amend the Article 70 of the Constitution of Bangladesh.

#### **5. Re-establishment of Caretaker government**

At the time of Caretaker government, the law order situation of the country was nice. There was no corruption in the country. This government had presented us three successive parliamentary elections and people had properly used their right of voting power and thus took part in government. In this way, this government had played role for strengthening democracy and good government. So, for the political reality of Bangladesh now it is time to re-think of caretaker government to establishment good governance in Bangladesh.

#### **6. Re-arrangement the relationship between religion and politics**

Ninety percent people of our country are Muslim. There are many political parties based on religion in our country. Their condition is not good. The relationship between religion and politics are not also good. It is needless to say that mutual re-arrangement of religion and politics is necessary to ensure good governance in the country. In the interview, a scholar has suggested this strongly.

## **7. Eradicate of corruption**

Countries cannot be considered having good governance, if they are corrupt. In Bangladesh there exists massive corruption in administration and government offices. It would tough to get corruption free office. To preserve the integrity of democracy and to establish good governance, corruption will have to remove from every sector of the country. Official Secrecy Act must not be abused. For this government has to make strict law and ensure the enforcement of that law and strengthening ACC is must. The ACC has to be free from political manipulation. More use of CC camera in all offices can play role for combating corruption.

## **8. Strengthen Anti-Corruption Commission**

For ensuring good governance, government should strengthen the ACC. It will be free from the influences lower judiciary and the executive. The AAC must work transparently. Any person and organization must not be penalized by the ACC without following due legal processes.

## **9. Consciousness and responsibility of people**

People of all classes such as elected representatives, teachers of all educational institution, government officers, businessmen, owner as well as workers of industries, and political parties should be more conscious and do their duties and responsibilities sincerely. In the interview a Member of Parliament has suggested this strongly to ensure good governance.

## **10. Consciousness of Ministers**

Ministers of all ministries have to be more conscious so that every department of ministry may do their work honestly and sincerely. Political interfere in every sector must be stopped.

## **11. Ensure Transparency and accountability**

Transparency and accountability in every offices and the government in power must be ensured and rule of law in every sector should be ensured. Accountably, responsibility and transparency of ministers and civil servants must be ensured. For this government should display and publicize all the transactions, particularly financial issues so that trust between the people and the government is established. To ensure accountability, some methods

like setting up social-auditing system should be evolved. The civil society should appoint social auditing committees to monitor the activities/projects, implemented by the government. The practice of accountability and transparency in the public bodies, local government institutions and ministries, the active role of public oversight bodies like Parliament, Information Commission, ACC, the Office of the Controller and Auditor General in particular would be vital for the promoting of good governance in Bangladesh.

### **12. Visionary, strong and patriotic leadership**

Political system must be overhauled with strong, competent, patriotic and visionary leadership through meaningful and effective reforms. To improve the quality of leadership across various fields and all levels through: capacity development, defining core values; and clear vision are important.

### **13. Effective Parliament and parliamentary committee**

Parliament as well as parliamentary committee must have to do effective and meaningful. It is imperative for good governance that the parliamentary committees must be made more effective to scrutinize executive actions. It will review public policy and cost. It will also supply inputs to ensure the welfare of the citizens.

### **14. Independent and impartial media**

Electronic as well as print media will be fully independent. To establish good governance in Bangladesh their impartial news is very much important. Achieving good governance requires the understanding and participation of every member of the society. In this context free and fair media is considered as a powerful instrument to make this object a reality. However with its powerful role, the media may get corrupted or come under undue influence. Editors and reporters must be vigilant so that corrupt and unethical journalistic practices do not undermine the power of media. Media groups, like professional bodies, need to set journalistic ethical standards and train their reporters adequately to that they are not easily influenced by corruption. Modern laws should be made in Bangladesh to ensure the impartiality of journalism.

### **15. Independent and separate Executive, Legislature and Judiciary**

Three organs of government that is Executive, Legislature and Judiciary have to give freedom of work. The three department of government will do their duty independently, impartially and separately.

### **16. Institutionalization of democracy within political party**

Democracy and good governance are complementary to each other. As institutionalization of democracy within political parties is the gear of the whole democratic system, the main leaders of the political parties have to ensure it. Our government and political parties should go ahead to ensure it. This kind of democratic platform will play positive role to ensure good governance in Bangladesh.

### **17. Establishment of independent election commission**

The continuation of democratic government, electoral democracy and practice of Parliamentary government will improve good governance in Bangladesh. An independent election commission is most essential for conducting free and fair election and to strengthening democracy. For this, the reform of present election commission is a must. The Commission must have its own fund and the budget and it should have its own staffs and personnel recruited by the Commission itself. Though it is not provided in the Constitution, it is a part of a convention as practiced in other countries that it should submit its report to parliament on the completion of each election and a committee will deal with it.

### **18. Skilled and efficient, non-polarized, accountable and transparent bureaucracy**

To ensure people's participation in administration and to establish good governance in Bangladesh a strong, efficient, non-polarized, accountable, transparent and merit based bureaucracy is needed. Our government should promulgate a public service act immediately to give public servants security of tenure, performance evaluation and merit based promotion through holding examinations.

### **19. Women empowerment**

To strengthen democracy as well as to establish good governance in Bangladesh women empowerment is must. About half percentage of our population is women; so ignoring the large number of population development cannot be possible.

### **20. Reformation of some constitutional institutions**

PSC, EC and ACC should reform immediately. They will have to be independent and free from political interference to do their duties properly and impartially.

### **21. Judiciary should come forward**

An independent and effective judiciary is essential to good governance. It will protect the rights of citizens and the vulnerable group. The higher judiciary of Bangladesh should come forward on its own desire to enforce in public interest.

### **22. Spreading moral education and practise of honesty**

Good governance urgently requires a revival of ethics and values permeating the nation's social fabric. These must be inculcated in society with the help of educational and training institutions. Moral education must be introduced in every educational institution from primary level and it should be compulsory.

### **23. Honesty of the politicians**

The politicians must be honest and committed. If they can rise above corruption and set self-sacrificing examples, it will help to establish good governance.

### **24. Fulfill the post of Ombudsman**

Article-77of Bangladesh Constitution has been said the post of Ombudsman. It is a high priority of good governance to set up the office of Ombudsman. It will help to remove corruption from government offices. If the government appoints the post of Ombudsman, it will help to establish good governance in our country.

### **25. National Advisory Committee**

In order to ensure good governance in the financial sector, a strong National Advisory Committee should be formed.



## **26. Strong local government**

If we want to achieve the goal of good governance, we have to strengthen the local government system. Different standing committees for managing local affairs of local government bodies are essential to establish good governance at local level. For active and effective committee, it should be formed openly so that broader participation of society is ensured.

## **27. Poverty eradication and ensure food security**

It is imperative for good governance that national consensus is arrived at on major issues viz..., poverty eradication, special focus on the poor and disadvantaged, vulnerable groups and women, basic education and health, which are priority programmes and require responsive service delivery by government.

Food security and attainment of millennium developments are major directions for which good governance must be pursued in Bangladesh.

## **28. Morality and honesty of police department**

Members of police in the district and thana level are more corrupted. So, they must have to be moral and honest. In the interview, a MP has suggested this to ensure good governance.

## **29. Give importance on qualification**

The authority should give more importance on qualification rather than muscle power or political identity while giving appointment citizens in the service both in public and private sector. In the survey, a several participants have suggested this.

## **30. Making effective bridge between government and governed**

The government should go ahead to make effective bridge between government and governed. For this, people's participation in decision making process and the freedom of speech must be ensured.

### **31. Practise of patriotism**

Practise of patriotism is the important things which can play role to establish good governance indirectly. A real patriot cannot do any task which is harmful for the country. So, all citizens and ruler of the country should practise of patriotism.

Apart from the above mentioned recommendations, the good governance guidelines for Bangladesh should be: a) constitutional guarantee is a must to show the will and commitment of the nation state towards good governance and its full implementation should also be ensured; b) It will be accompanied by institutional reforms in terms of public management and partnership with private sector and civil society; c) a massive public awareness should be brought to make all the people aware of their rights, obligations and benefits, as key players in good governance. So, we can say by using the above mechanisms democracy can be strong and participatory and good governance can be ensured in our beloved country.

## **7.2 Conclusion**

From the above discussion, it is clear that after the re-introducing of parliamentary democracy by the 12<sup>th</sup> amendment of Constitution good governance does not reach its expected level in Bangladesh. It is a matter of great regret. Because democracy and good governance is related with each other. It is impossible to establish good governance without democracy. In spite of re-introducing democracy, good governance is not well established in Bangladesh rather various kinds of elements of poor governance are prevailing here.

The twelfth amendment of Constitution is considered as a mile stone for democracy as well as good governance. It has played a vital role to establish good governance in our country. It is very much clear from the above analyzed data. But it is a matter of great concern that in the name of constitutional democracy, the prime minister's autocracy has been deployed. There remain massive corruption in all sectors and increasing undemocratic practice of the country and devaluation of merit everywhere. Political

interference and nepotism are practised in everywhere in the country that is hampering good governance.

By the thirteenth amendment of Constitution there introduced Caretaker government. Caretaker government system is not best for democracy but for the distrust, suspicion and doubt among the political parties, it took place in our political system. It is true that three successive parliamentary elections had been held under this government. So, for the political reality of Bangladesh it high time to re-think of Caretaker government. It had played key role to establish good governance in the country. In my study more than 54% respondents have given their opinions on behalf of Caretaker government.

By the fourteenth amendment of Constitution, the duration of constitutional post such as the chairman of PSC and the chief justice of Supreme Court has been increased. It is considered as a unique tactics to safeguard the power. This has been done for the self interest of ruling government of that time. From the data got from the interview as well as survey it is clear. More than 53% people opine this amendment as negative. But this amendment has played fundamental role to the empowerment of women increasing reserved seat in the Parliament. So, it can be said that it has a little bit contribution to establish good governance but maximum Articles are not related to good governance.

The fifteenth amendment of Constitution has some positive sides as well as negative sides. The preservation of environment and bio-diversity, empowerment of women by increasing reserved seats of women in the Parliament and protection of cultural diversity of the ethnic minority community is considered as positive to the constitutional analysts. These are positive side for good governance.

The Caretaker government system has been cancelled by the 15<sup>th</sup> amendment of Constitution. It is considered as negative side to someone. It is also considered as a barrier on the way of establishing good governance in the reality of Bangladesh. In study, more than 54% respondents have given their opinion on behalf of this government. So, now it is time to re-think of Caretaker government.

Amendment to the Article 7B has been said, “Notwithstanding anything contained in Article 142 of the Constitution, the preamble, all articles of part I, II, III and the provisions of articles relating to the basic structures of the Constitution including article 150 of part XI shall not be amendable by way of insertion, modification, substitution,

repeal or by any other means.”<sup>1</sup> By incorporating this article, the power of National Assembly as well as people has been violated. It is an offence to change the fundamental principles of the Constitution and the two military dictators did the same. This is considered as a wrong deed on the way of good governance.

By analyzing the 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> amendment of Bangladesh Constitution and from the data got from the primary as well as secondary sources, it can be said that some articles of these amendment have played significant role to establish good governance and some are considered as barrier on the way of establishing good governance. For example, 12<sup>th</sup> amendment of Constitution is considered as mile stone for democracy as well as good governance. On the other hand, 15<sup>th</sup> amendment is considered as impediment on the way of establishing good governance. Some articles have no relation with good governance and some articles have been inserted in the Constitution for the self interest of the ruling party and some to clear the way for next election. Although, it has been done always in the name of public welfare irrespective of regimes.

From the above discussion and analysis it can be said that the undemocratic and unethical practised by politicians as well as people of various professions have created many problems such as massive corruption , nepotism, absence of rule of law, political anarchism and political instability, internal conflict among the political parties, illusion of power, misuse of power, family centralized politics, authoritarian government system and supreme authority of the PM , controversial parliamentary elections, influence of muscle power, weak enforcement of law, political interference, policy of politicization in administration, lack of cordiality, honesty, transparency and accountability in every sector, ineffective Parliament and parliamentary committee, lack of more strong, powerful and independent judiciary, violation of freedom of speech and human right, partial journalism, imbalance education system etc. which are considered as barrier on the way of establishing good governance in Bangladesh. In spite of introducing parliamentary democracy in the country by the 12<sup>th</sup> amendment of Constitution, good governance does not reach its desired goal in Bangladesh. Moreover, this has been occurred due to the absence of strong political good will, constitutional barrier, immorality and political unconsciousness of people as well as partiality of mass media.

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<sup>1</sup> The Constitution of the People's Republic of Bangladesh, October 2011, p-158

Now it is time to bring rapid change in the place of leadership and revolutionary reform of the rules of business of the state policy as well as Constitution. Besides this, mutual re-arrangement of religion and politics is also necessary to ensure good governance. Finally I would like to say that many ideal as well as principles are written in the Constitution. Constitution itself cannot ensure the guarantee of democracy and good governance unless the rules and regulation within the Constitution is strictly obeyed. For this, equalization of strict law and its enforcement is inevitable. Only the strong political good will of the ruler of the country can ensure this and if the people of all professions in the country do their duties properly from their respective position, good governance will be established in Bangladesh soon.

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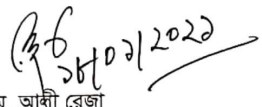
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## **Appendix**

## Appendix – 1

### Charter of the Approval of the Field Study

 <p>ঢাকা বিশ্ববিদ্যালয় রাষ্ট্রবিজ্ঞান বিভাগ ঢাকা-১০০০, বাংলাদেশ</p>		<p>ফোন : পিএবিএক্স ৯৬৬১৯০০-৭৩/৬৪৯০ ফ্যাক্স : ৮৮০-২-৯৬৬৭২২২ Email : polisci@du.ac.bd তারিখ :</p>	
<p>০৪ মাঘ ১৪২৭ ১৮ জানুয়ারি ২০২১</p>			
<h3><u>যাঁর জন্য প্রযোজ্য</u></h3>			
<p>শাহাজাদী খানম ঢাকা বিশ্ববিদ্যালয়ের সামাজিক বিজ্ঞান অনুষদের অন্তর্গত রাষ্ট্রবিজ্ঞান বিভাগে আমার তত্ত্বাবধানে এম.ফিল. ২য় পর্বের একজন গবেষক। ঢাকা বিশ্ববিদ্যালয়ে তার রেজিস্ট্রেশন নং- ২৪৯, সেশন: ২০১৫-২০১৬। তার গবেষণার শিরোনাম: Amendments to the Constitution of Bangladesh and Good Governance [1991-2011]: A Review। তার গবেষণার তথ্য ও উপাত্ত সংগ্রহের জন্য আপনার সহযোগিতা কামনা করছি। আপনার প্রদানকৃত তথ্যসমূহ শুধু গবেষণাকর্মে ব্যবহৃত হবে এবং সংগৃহীত তথ্যসমূহ সম্পূর্ণ গোপন রাখা হবে। কোনো মাধ্যমে সেগুলো প্রকাশ করা হবে না।</p>			
<p></p> <p>ড. স. ম. আশী রেজা প্রফেসর এবং গবেষণা তত্ত্বাবধায়ক রাষ্ট্রবিজ্ঞান বিভাগ ঢাকা বিশ্ববিদ্যালয়।</p>			

## **Appendix - 2**

### **Acquaintance of the participants:**

To collect primary data from the field I have followed survey method as well as interview method. Thirty participants of different profession such as politician, judge, public university professor, professor of various government colleges, journalist, doctor, bureaucrat and banker have given their valuable opinions. Here I would like to give the names of the participant including designation and their institutions

#### **POLITICIANS**

1. Mrs. Tahmina Begum-Member of Parliament 341-Women reserved seat-41 (AL)
2. Dr. Abdus Sobhan Golap- Member of Parliament-Madaripur-3 (AL)
3. Abdur Rahim-Former Social welfare secretary, central committee at BNP and Lawyer of Supreme Court
4. Mohammad Abdul Karim -Ex assistant international affairs secretary, JCD (BNP)

#### **UNIVERSITY TEACHERS**

5. Professor Dr. Farid Uddin Ahmed –Department of Political Science, Dhaka University
6. Professor Dr. Sabbir Ahmed - Department of Political Science, Dhaka University
7. Professor Dr. Munshi Murtoza Ali –Department of Public Administration, Islamic University, Kushtia
8. Nibadita Ray- Assistant Professor, Department of Political Science, Jagannath University, Dhaka
9. Md. Rezaul Islam- Assistant Professor, Patuakhali Science and Technology University

10. Hafizul Islam-Lecturer, Department of Public Administration, Islamic University, Kushtia

### **JUDGES**

11. Ranesa Khan- Assistant judge, Patuakhali district judge court

12. Md. Mahadi Hasan- Assistant judge, Bangladesh Judicial Service

### **JOURNALISTS**

13. Md. Fatihul Kadir-writer & columnist, Daily Somokal

14. Afrin Jahan- Senior Reporter, Bangladesh Television

15. Atikul Islam Liton-Senior Reporter, Daily Jugantor

16. Israt Jahan Rupa-Reporter, Daily Prothom Alo

### **DOCTORS**

17. Dr. Monowara Sultana- Director, Directorate General of Health Services, Mohakhali, Dhaka.

18. Dr. Rashed Mahmud, Assistant Professor, Department of Neuro Surgery, Dhaka medical College Hospital

### **BUREAUCRATES**

19. Mohammad Hossain Sarker-Deputy Secretary, Ministry of Public Administration

20. Abu Syed-Additional District Commissioner, Khagrachari District

### **GOVT. OFFICERS**

21. Sarfuddin Muhammad abu Yousuf, Assistant director, Directorate of Secondary and Higher Education, Dhaka, Bangladesh
22. Asma Begum Shila, Assistant director, Directorate of Secondary and Higher Education, Dhaka, Bangladesh
23. Shimul Barai, Research officer, Directorate of Secondary and Higher Education, Dhaka, Bangladesh

### **TEACHERS OF COLLEGE**

24. Shamima Nasrin- Assistant Professor (Political Science), Manikgonj Govt. Debendro College.
25. Dr. Mahbubur Rahman- Assistant professor (Political science), Sheik Borhan Uddin Post Graduate College, Dhaka
26. Kawser Ahamed- Lecturer (Political science), Dhaka College
27. Tanzina Afroz - Lecturer (Political science), Eden College
28. Lovely Sarder- Lecturer (Political science), Comilla Govt. Women's College

### **BANKERS**

29. Sonia Sabrina Khan- Principal Officer- Agrani Bank Limited, Dhaka
30. Rasel Ahmed- Officer- Premier Bank, Dhaka

## Appendix 3

### Questionnaires of the study:

To perform my study I have used the following questionnaire.

#### 1) What do you mean by good governance?

- a) Transparent, corruption free and accountable administration
- b) The political system where exist rule of law.
- c) The political system where remain good relationship between ruler and the ruled
- d) All the above

#### (2) We know that Constitution is the supreme law of a country. Do you think that by amending Constitution and its proper utilization good governance can be established in Bangladesh?

- a) Yes
- b) No

#### (3) Four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup> & 15<sup>th</sup>) of Bangladesh Constitution have been done from 1991 to 2011. Do you think the above mentioned amendments have played role to establish good governance?

- a) Yes
- b) No
- c) Some have played role and some act as obstacle on the way of establishment of good governance



**(4) By the 12<sup>th</sup> amendment of Bangladesh Constitution there re-introduced parliamentary system of government. Do you think that this amendment has played role to establish good governance in Bangladesh?**

- a) Yes
- b) No
- c) Less likely
- d) No comment

**(5) By the 13<sup>th</sup> amendment of Constitution there introduced non-party caretaker government in Bangladesh. Do you think that the Caretaker government had played role to establish good governance?**

- a) Yes
- b) No
- c) Less likely
- d) No comment

**(6) By the 14<sup>th</sup> amendment of Bangladesh Constitution there increased the period of some constitutional post such as the chairman of PSC and the chief justice of Supreme court. Do you think that initiative had played any role to establish good governance in Bangladesh?**

- a) Yes
- b) No
- c) For the self interest of the ruler
- d) No comment

**(7) The reserved seats of women have been increased in the Parliament by the 14<sup>th</sup> and 15<sup>th</sup> amendment of Constitution. Do you think that initiative has played any role to establish good governance in Bangladesh?**

- a) Yes
- b) No
- c) Less likely
- d) No comment

**(8) We know that the Caretaker government system has been cancelled by the 15<sup>th</sup> amendment of Constitution. Do you think that will play or has played negative role to establish good governance in the reality of Bangladesh?**

- a) Yes
- b) No
- c) Less likely
- d) No comment

**(9) The elementary principles of state policy have been changed by the 15<sup>th</sup> amendment of Constitution. Do you think that will play helpful role or that have played negative role to establish good governance Bangladesh?**

- a) Will be helpful
- b) Will not be helpful
- c) Will be helpful partially
- d) Will play negative role

**(10) Do you think that the four amendments (12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>&15<sup>th</sup>) of Bangladesh Constitution which have been done from 1991-2011; maximum of it has been amended for the self interest of the ruling party?**

- a) Yes
- b) No
- c) Less likely
- d) No comment

**(11) What are the things which you consider as hindrance on the way of establishing good governance in Bangladesh?**

**(12) What are your recommendations to establish good governance in Bangladesh?**