



Bangladesh - 16th Constitutional Amendment

Why in news?

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Bangladesh's Parliament recently passed a unanimous resolution to take "proper legal steps" over a Supreme Court verdict that nullified the 16th Constitutional amendment.

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What are the features of 16th amendment?

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- It was passed in 2014.
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- It empowered the Parliament to remove judges of the Supreme Court who are found incompetent or guilty of misconduct, based on a two-thirds majority.
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- This amendment had in a way restored the power of Parliament to impeach judges which was a part of the original Constitution of 1972.
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- Earlier this year, SC had scrapped the amendment.
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- The court found the provision to be against the independence of the judiciary.
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- It restored the Supreme Judicial Council with powers to remove errant judges.

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What was the court's rationale?

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- The Supreme Court's is of the view that the Bangladesh's political system is different from the parliamentary systems in the UK and India, where legislators are empowered to impeach judges.
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- Bangladeshi MPs are bound by Article 70 that prevents legislators from voting against their party's decision on any matter.
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- So they do not have the freedom to vote on conscience on issues including impeachment.
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- This gives political parties an undue influence over appointments in the judiciary.
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What should be done?

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- Instead of taking a course of confrontation against the judiciary, Bangladesh's parliamentarians should proceed with a review petition to the SC.
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- The justification of the SC that it is seeking to protect judicial independence need to be contested by the government point by point and not by a mere resolution.
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Source: The Hindu

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