

International Journal of Law Research, Education and Social Sciences

Open Access Journal – Copyright © 2026 – ISSN 3048-7501
Editor-in-Chief – Prof. (Dr.) Vageshwari Deswal; Publisher – Sakshi Batham



This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

The Paradox of Constitutionalism in Bangladesh: An Analysis of Competing Constitutional Principles

Prof (Dr) Abdur Rahman^a Md. Mostafijur Rahman^b Faijul Islam^c

^aProfessor, Faculty of Business, Prime University, Bangladesh ^bAssistant Professor, Department of Law, Prime University, Bangladesh ^cLecturer of Law, Prime University, Bangladesh; M.Phil Researcher, University of Chittagong, Bangladesh

Received 23 May 2026; Accepted 22 June 2026; Published 25 June 2026

The constitution establishes the fundamental legal principles that must be followed in the overall governance of a country. This must represent people's hopes and aspirations. Under different circumstances, the Constitution may be amended. That, too, should reflect public desire. However, if there is an inconsistency in the Constitution, it can lead the nation astray. Secularism and socialism have long been contentious issues in Bangladesh. There have been numerous studies, debates, and discussions about the impact of these two constitutional contradictions. If there are any contradictions in the Constitution, they should be resolved in accordance with citizens' expectations. This study examines the effects of these two issues of constitutional contradiction from a new set of perspectives on the content and problem of constitutional contradiction by reviewing relevant literature on constitutional contradiction in relation to secularism and socialism.

Keywords: *constitution, constitutional contradiction, secularism, socialism, Bangladesh.*

INTRODUCTION

Bangladesh adopted its constitution in 1972, following a long liberation struggle that culminated in a war of independence and the establishment of the People's Republic of Bangladesh, as well as the solemn expression of the people's will. Numerous people suffered, made supreme sacrifices, and had to contribute in whatever way they could, but their determination to achieve the desired goal was unwavering. The constitution, which is the supreme law of the land, is made up of opening verses, a preamble, eleven parts, seven schedules (the second of which is omitted), and 153 articles (Constitution of the People's Republic of Bangladesh, 1972). All powers in the Republic, according to the Constitution, must be exercised within the authority of the Constitution, and any law of the land must be in accordance with the spirit of the Constitution. People's right to equality was recognised in the Constitution, including equality based on religion, race, ethnicity, gender, and place of origin. It also outlined the lofty ideals of nationalism, socialism, democracy, and secularism that inspired our brave people to devote themselves to national liberation and our brave martyrs to sacrifice their lives for it. The Constitution may be amended in certain circumstances. Any inconsistencies in the Constitution should be resolved in accordance with citizens' expectations. Some contradictions violate the Constitution at the same time. The Constitution was drafted at an inopportune time to address the political situation.¹

As a result, there was the possibility of some flaws in the Constitution, which occurred. Another reason for the Constitution's backwardness is political intention. That is, at various times, different ruling parties amended the Constitution in their favour. Some of the amended provisions have been removed, while others remain. Some positive provisions of the Constitution have lost their meaning because they are not incorporated in the proper Part of the Constitution. These provisions have lost their meaning because the Part to which they belong no longer has judicial enforceability. The provisions of this Part serve as a guidepost for the country's governance. The government considers these provisions to be a program. This is the directive section, which is neither obligatory nor mandatory for the government. This Part's provisions cover the people's economic, social, and cultural rights. This Part, however, contains

¹ M Jashim Ali Chowdhury, 'How Bangladesh can approach constitutional equality' (*Blogger*, 01 January 2022) <http://mjashimalichowdhury.blogspot.com/2022/01/how-bangladesh-can-approach_1.html> accessed 20 May 2026

some self-contradictory provisions as well as provisions that should not be included in this Part. For instance, Article 8 establishes the Fundamental Principle of State Policy.

According to this Article, “the principles of absolute trust and faith in the Almighty Allah, nationalism, democracy, and socialism, meaning economic and social justice, together with the principles derived from them as set out in this Part, shall constitute the fundamental principles of State policy”.² This article contradicts itself because 'absolute trust and faith in Almighty Allah' results in an Islamic intention and implies the existence of an Islamic country. If this is the case, why is the word 'nationalism' included in this article? The term 'Islamic State' is opposed to the term 'nationalism.'

Another inconsistency exists between the terms 'democracy' and 'socialism.' There may be a social democratic state, but where there is only democracy, socialism does not exist. Because of these provisions, the Article became self-contradictory. According to Article 10, “steps shall be taken to ensure the participation of women in all spheres of national life”. This is an extremely positive approach. However, because it is part of Part II, this Article is rendered meaningless. Because of its displacement, it eventually lost its enforceability. It eventually falls into the stage of discrimination against women, and we can say that it is enumerated in this Part to discriminate against women. Finally, it contradicts Article 28(1), which states that “the State shall not discriminate against any citizen solely based on religion, race, caste, gender, or place of birth”.³ If Article 10 is included in Part III, it will be appropriate and will not be based on discrimination. As a result, this research looks at the constitutional contradiction from the perspective of Bangladesh.

RATIONALE OF THE STUDY

This study is important for any academic research and study relating to secularism vs state religion, as well as socialism vs free market economy, in the context of Bangladesh. The research will attempt to educate the general public on the concept and reality of constitutional contradiction. It will assist academics in comprehending the fundamental issues of contradictions and their relationship to the constitution. The research will help us understand whether Bangladesh's current constitutional contradictions and practices are successful and

² Constitution of People's Republic of Bangladesh 1972

³ *Ibid*

relevant. In addition, the findings will be used as literature for students, policymakers, and other interested parties who want to learn more about or conduct research on a related topic.

LIMITATION OF THE STUDY

The study lacks empirical data that could indicate different stakeholders' reactions to the coexistence of secularism and state religion, as well as socialism and capitalism. Furthermore, the study is limited by a lack of substantial literature in Bangladesh on the relevant academic area. The lack of relevant literature posed a challenge to presenting the arguments in this study, necessitating a better understanding of the nature and scope of secularism and socialism in Bangladesh, as well as research on related topics.

RESEARCH OBJECTIVES

Constitutional contradiction has several meanings and characteristics. Numerous contradictions can be considered major confrontational issues, but in this study, two important contradictions—secularism and socialism—were identified as the bare minimum yardstick for judging contradictions in Bangladesh. So, the study's main goal is to investigate how secularism and a state religion, as well as socialism and capitalism, coexist in Bangladesh's Constitution. Other study objectives include discussing some interconnected points, such as the conceptual frameworks of contradiction and constitutionality and their interconnection.

RESEARCH METHODOLOGY

An exposition, conceptual clarification, and critical analysis method were used for this study. Analytical explanations of philosophy have also been pursued to apply them to areas of study that call for them. As is typical of most philosophical expositions, the data and information for this study were obtained from secondary sources and through the existing constitutional realities in Bangladesh. The materials in this source are the results of a thorough review of related literature, books, and journal articles.

CONCEPTUAL FRAMEWORK

Concept of Socialism: Even though the term 'socialism' first appeared in Robert Owen's *Co-operative Magazine* in 1827, and *le socialisme* in the Saint-Simonian journal *Le Globe* in 1832,

Plato had proposed the idea of the collective society in his famous book ‘Republic’ in 480 BCE. Following the 1789 French Revolution, social thinkers such as Karl Marx, Robert Owen, and Vladimir Lenin proposed the concept of socialism.⁴ During the 18th and 19th centuries, Western Europe was a victim of capitalism due to an unregulated market economy in which the means of production were privately owned and propertyless workers were forced to sell their labour power to capitalists for often meagre wages, resulting in widespread poverty and recurring poverty.⁵ From this perspective, the definition of socialism may vary depending on context. In general, socialism is a political and economic system in which the means of production and property are owned by the public and thus contribute to social equality. Socialism is the belief that everyone in a community should have an equal say in the production and distribution of resources. Socialism arose in response to capitalism. Capitalism is based on the idea of private ownership of the means of production. Capitalism gave the rich an advantage, and the rich will always be rich, while the poor will always be poor.

Concept of Secularism: In 1851, the British writer George Holyoake coined the term ‘secularism,’ which stated that government or other entities should exist apart from religion and/or religious beliefs.⁶ Some scholars define secularism as the phenomenon in which religion is completely separated from the state. Others believe that, while secularism denotes the separation of religion and state, religion should have little involvement in the public domain because it is such an important part of people's lives.⁷ The goals and arguments for secularism vary greatly. It has been argued in European laicism that secularism is a movement toward modernisation and away from traditional religious values. In the United States, state secularism has served to protect religion from governmental interference to a greater extent, while social secularism is less prevalent.⁸ In Muslim countries, secularism refers to the state as opposed to the mosque. Secularism, according to some, has two aspects. First and foremost, religious freedom and non-discriminatory civil rights for people of all faiths must be ensured. Second, religion should be kept separate from all state activities. The first is guided by Islam and the

⁴ ‘What is ‘Socialism’” *The Economic Times* <<https://economictimes.indiatimes.com/definition/Socialism>> accessed 20 May 2026

⁵ John Oneill, ‘Socialism’ in *Routledge Encyclopedia of Philosophy* (Routledge)

⁶ Jelis Subhan, ‘Concept of Secularism’ (2016) SSRN: <<https://www.ssrn.com/abstract=3517967>> accessed 20 May 2026

⁷ Md Jahid Hossain Bhuiyan, ‘The Contested Concept of Secularism and Bangladesh’ (2021) 69(3) *The American Journal of Comparative Law* 399–448 <<https://doi.org/10.1093/ajcl/avab014>> accessed 20 May 2026

⁸ Subhan (n 6)

principles of the Islamic state system, while the second is contrary to Islam. This was the policy of the Prophet's (PBUH) government, which established the state of the Prophet (PBUH) in Madinah with equal rights for all religions. The Prophet (PBUH) provided the world with the best example of religious neutrality through the Madinah Sanad. All religious ethnic groups living in Madinah are declared to be of the same race in this charter

Socialism in Bangladesh: Socialism, along with nationalism, democracy, and secularism, is one of the four fundamental principles of state policy enshrined in the Bangladesh Constitution.⁹ Socialism is mentioned in the Constitution's Preamble as 'a way to establish an exploitation-free society.' Further pledging that it shall be a fundamental aim of the State to realise through the democratic process a socialist society, free from exploitation—a society in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic, and social, will be secured for all citizens,' says the third paragraph of the preamble.¹⁰ By the 5th Amendment, Article 10 of the original Constitution declaring the establishment of a socialist economy was substituted, and with the 15th Amendment, going back to the Constitution of 1972, 'socialism' is also back among the basic principles of the state.

Secularism in Bangladesh: Bangladesh's constitution was adopted in 1972, and secularism was incorporated into it. President Ziaur Rahman amended the Constitution in 1977 to remove the secularism principle and replace it with 'full trust and faith in Almighty Allah.' Through the Eighth Amendment, Islam was declared the state religion in 1988, during the presidency of President Hussain Muhammad Ershad. After three decades, the Sheikh Hasina government has reinstated 'secularism' in the constitution while abandoning the principle of 'full trust and faith in Almighty Allah.' The Fifteenth Amendment to the Constitution was adopted in 2011, as the Sheikh Hasina government saw the need to adhere to an established religion model while also ensuring that religious minorities were given adequate rights. Adopting Islam as the state religion is seen by the Awami League as a way to appease the Muslim majority while also coexisting peacefully with religious groups such as Hefazat-e-Islam.¹¹

⁹ Constitution of People's Republic of Bangladesh 1972

¹⁰ *Ibid*

¹¹ Bhuiyan (n 7)

CONTRADICTION IN RESPECT OF SOCIALISM

Contradiction of Socialism and Capitalism: Even though the basic principle of the constitution is socialism, Bangladesh is now a fully capitalist state with a capitalist policy. Following independence, a socialist economy was formed, a free-market economy was introduced, and liberalisation was initiated as a result of the country's frequent political changes, which resulted in a chaotic situation and economic backslide.¹² The terms 'socialism' and 'socialist' were reintroduced in 2011 to align the constitution with the original document, but the country remained a liberal mixed economy. The following discussion reveals the truth.

Income Inequalities: According to the Bangladesh Bureau of Statistics' (BBS) Household Income and Expenditure Survey (HIES) published in 2016, the income shares of the poorest 10% of the household population received 1.01 per cent of total national income in 2016, up from 2% in 2010. In comparison, the richest 10% of the population received 38.16 per cent of national income in 2016, up from 35.84 per cent in 2010. According to the National Human Development Report 2021 released by the Economic Relations Division of the Ministry of Finance, Bangladesh's Gini coefficient (Gini Index) score increased from 26 to 32 between 1983 and 2016, representing a nearly 25% increase. According to the 2021 NHD report, the richest 5% of Bangladesh's population owned nearly 30% of the national income in 2016, while the poorest 5% shared less than 0.3%. According to the report, the share of the top 10% of households in national income increased to 38% in 2016 from 28% in 1991, while the share of the bottom 40% decreased to 13% in 2016 from 17.4% in 1991.¹³ According to the 'World Inequality Report 2022,' only 1% of Bangladesh's population owns 16.3% of total national income in 2021, while the bottom half owns 17.1%.

According to the most recent update of the index, published on December 7, only 10% of Bangladesh's total national income is held by the country's population. Since the 1980s, income distribution inequality has risen significantly. In 1981, one per cent of the population had 11.8 per cent of pre-tax national income, while the bottom 50% had 20%. According to economists, the situation has been stable in recent years, but the number of poor and rich people is increasing

¹² Anu Muhammad, 'From 'socialism' to disaster capitalism' *The Daily Star* (24 November 2020)

<<https://www.thedailystar.net/opinion/news/socialism-disaster-capitalism-2012313>> accessed 20 May 2026

¹³ Shakhawat Hossain, 'Bangladesh sees rise in per capita income amid growing inequality' *New Age* (31 January 2022) <<https://www.newagebd.net/article/161512/bangladesh-sees-rise-in-per-capita-income-amid-growing-inequality>> accessed 20 May 2026

on a daily basis.¹⁴ This situation demonstrates that, while the country may be performing better in certain development indicators, income and asset inequalities persist and may pose a significant threat to the overall economy.

Legacy of Capitalism: The country continues to run counter to the commitment to establish a society ‘free from exploitation’ with ‘rule of law,’ that ensures ‘fundamental human rights and freedom,’ ‘equality and justice,’ and ‘political, economic, and social security for all citizens’.¹⁵ The amendment to Article 42(2) of the Constitution stated that the acquisition of private property could only be done with compensation. Most nationalised industries were privatised as a result of these amendments, with financial institutions accounting for the majority of the economy. It spawned a new capitalist class and their unbroken legacy. The constitutional pledges and the actual development path are completely at odds.

Anu Mohammaad, a prominent economist in Bangladesh, expressed disappointment that, after independence, Bangladesh failed to alter the social power matrix that had prevailed during the Pakistan period; the legal and judicial systems remained untouched, and the land administration, despite land reform measures taken in 1972 and 1984, remains unchanged to this day. He went on to say that in today's one-eyed development model, people's ownership of common properties is practically denied, workers' rights are severely violated, environmental blindness and structure-oriented approaches remain dominant in development projects, institutions are crippled to serve ruling groups, and a lack of accountability and transparency is a permanent feature of the system. As a result, despite its rapid growth, Bangladesh remains a country with significant poverty, rising inequality, and vulnerability. With the primitive nature of capital accumulation and the rise of a new super-rich class, violence and appropriation of common property have increased in tandem with GDP growth. The country's super-rich population has grown at one of the fastest rates in the world. This is the obvious result of a capitalist disaster.

Non-justiciable Principles: Article 14 of our Constitution declares the emancipation of the labouring masses, peasants, workers, and the poor from all forms of exploitation as a

¹⁴ Rejaul Karim Byron and Asifur Rahman, ‘1% of Bangladesh's population holds 16.3% of national income: Report’ *The Daily Star* (08 December 2021) <<https://www.thedailystar.net/news/bangladesh/news/inequality-increasing-2913046>> accessed 20 May 2026

¹⁵ Constitution of the People's Republic of Bangladesh 1972

fundamental responsibility of the state (Constitution of the People's Republic of Bangladesh, 1972). According to Articles 15, 17, 19, and 20 of the Constitution, “it shall be a fundamental responsibility of the state to achieve, through planned economic growth, a constant increase in productive forces and a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens” —

(a) The provision of necessities of life, such as food, clothing, shelter, education, and medical care;

(b) The right to work, i.e. the right to guaranteed employment at a reasonable wage, taking into account the quantity and quality of work;

(c) The right to reasonable rest, recreation, and leisure; and

(d) The right to social security, i.e. public assistance in cases of undeserved want resulting from unemployment, illness or disablement, or sufferer.

Unfortunately, because these provisions are in Fundamental Principles of State Policy, they are judicially unenforceable under Article 8(2) of our Constitution. No constitutional guarantee of these socioeconomic rights acts as a barrier to achieving the goal of a socialist society. The state's inability to bear the burden of such socioeconomic rights reduced them to mere non-justiciable principles. Giving these principles the status of justiciable rights, on the other hand, renders it unconstitutional in and of itself. Article 7B, which contains the doctrine of basic structure, protects basic constitutional provisions, including Part II (FPSP), making it unamendable. However, the judiciary uses other indirect methods, such as interpretation and recourse to fundamental rights in Part III, to ensure the justifiability of those non-justiciable rights. The right to life guaranteed in Article 32 is now a widely used measure that protects fundamental principles and ensures their enforceability. Regardless of such measures, the question of long-term effectiveness and sufficiency remains.¹⁶

¹⁶ Afsana Anayat Amey, ‘A tale of democratic socialism and our constitution’ *The Business Standard* (01 February 2021) <<https://www.tbsnews.net/thoughts/tale-democratic-socialism-and-our-constitution-194926>> accessed 20 May 2026

CONTRADICTION IN RESPECT OF SECULARISM

The Constitutional Position of Secularism and Islam as the State Religion: The Bangladesh government amended the constitution by inserting new provisions that maintained the wording on state religion while emphasising 'secularism' and the 'equal status' of other religions. Indeed, the 5th Amendment (1979) removed secularism from the constitution, and the 8th Amendment (1988) declared Islam to be the 'State religion,' and the constitution begins with the verse 'Bismillah-Ar-Rahman Ar-Rahim' from Sura An-Naml (27:30) of the Holy Quran. The Supreme Court invalidated the Fifth Amendment in 2005 due to the unconstitutionality of martial law. Part II, Article 8 of the 15th Amendment was amended in 2011 to reinstate secularism as a fundamental principle of State policy. The Preamble also declares that secularism is one of the Constitution's high ideals, and Article. 8 has solidified the Preamble's aspiration by incorporating secularism as a fundamental principle of State policy. Article 12, Part II specifically states the prohibition of communalism, non-privilege of any religion, and religious discrimination.

Art. 12 of the Constitution states: The principle of secularism shall be realised by

- (a) the elimination of communalism in all its forms;
- (b) the granting of political status by the State in favour of any religion;
- (c) the prohibition of any abuse of religion for political purposes; and
- (d) the prohibition of any discrimination against or persecution of persons practicing a particular religion.

Islam was retained as the State religion in Article 2A, Part I, and the invocation remained unchanged. The State religion of the Republic is Islam, but the State shall ensure equal status and equal rights in the practice of the Hindu, Buddhist, Christian, and other religions, according to Article 2A of the Constitution.¹⁷ Later, in Art. 7, the Constitution states that "all powers in the Republic belong to the people, and their exercise on their behalf shall be effected only under, and by the authority of, this Constitution".¹⁸

¹⁷ *Ibid*

¹⁸ *Ibid*

According to Article 41 of the Constitution, each citizen has the right to profess, practice, or propagate any religion; and (b) each religious community or denomination has the right to establish, maintain, and manage its religious institutions. No person attending any educational institution shall be required to receive religious instruction or to participate in or attend any religious ceremony or worship relating to a religion other than his/her own.

Contradiction of Secularism and State Religion: The current framework is incoherent because it incorporates two seemingly contradictory principles: secularism and a state religion. The state religion clause, as it appears in the Constitution under Article 2A, is incompatible with the principle of secularism enshrined in Article 12 of the Bangladesh Constitution. In other words, a state cannot be both secular and religious at the same time.

The State Religion Clause and the Fundamental Principles of State Policy: The Constitution's preamble lists 'nationalism, socialism, democracy, and secularism' as its four high ideals. According to Article 8, 'these principles shall be applied by the state in the making of laws, shall be a guide to the interpretation of the Constitution...'¹⁹ Although these principles are not legally enforceable,²⁰ they serve as the foundation of the Constitution. The constitutionality of any law must be determined in light of these principles. As a result, to assess the consistency of the state religion clause, these principles must be applied. The state religion, on the other hand, runs counter to the fundamental principles of Bangalee nationalism and liberal democracy as follows:

Islam and Bangalee Nationalism: Bangalee nationalism defined its people, their identity, and the distinguishing features that set Bangladesh apart from both Pakistan and India (the Indian Bangalees). Bangalee nationalism is defined in the Constitution as the unity and solidarity of the Bangalee nation, which, deriving its identity from its language and culture, attained a sovereign and independent Bangladesh through a united and determined struggle in the war of independence.²¹ This demonstrates that the people of Bangladesh will be united by their shared language and culture rather than religion. As a result, Bangalee nationalism is more cultural than religious. Bangali Mussalmen have a different socio-cultural and religious identity associated with the Bengali identity. This is why, to distinguish Bangladeshis from Indian

¹⁹ *Ibid*

²⁰ *Ibid*

²¹ Constitution of the People's Republic of Bangladesh 1972, art 9

Bangalees, President Ziaur Rahman replaced Bangalee nationalism with Bangladeshi nationalism.²² Zia's motivation was not solely to distinguish between Bangladesh and India. Rather, to remove secularism from the Constitution and add a new provision that made 'absolute trust and faith in Almighty Allah' -a fundamental principle of the Constitution. These concurrent changes indicate that, while Bangalee nationalism could have been complementary to secularism, it was incompatible with Islam's perception of Allah's superiority. According to this viewpoint, recognising Islam as the state religion means that the people of Bangladesh are first Muslim, and then Bangalee, or Muslims who are Bangladeshis. The secular elements' vision of unity and solidarity was jeopardised in this conflict between nationalism and religious identity. As a result, pro-secular nationalism in the Constitution eventually became meaningless.

Islam and Liberal Democracy: Religion must be kept separate from the state, according to the liberal democratic viewpoint. This implies that a constitutional provision for a liberal democratic system must be religiously neutral; a task in which secularism plays a critical role. Although Bangladesh's Constitution incorporates secularism to aid democracy's effectiveness, the concurrent presence of the state religion renders both democracy and secularism dysfunctional. In a country where 90 per cent of the population is Muslim, separate recognition of Islam is a hegemonic tool rather than a necessity. This recognition has facilitated the existence of oxymoronic complexes over the years: democracy and theocracy now compete for primacy in a secular Bangladesh.²³ As a result, the establishment of a state religion runs counter to the constitutional principle of liberal democracy.

Islam and Secularism or Vice versa: Since some important aspects of Article 12 of the Constitution are: secularism is to be realized by prohibiting the state from granting political status to any religion and by prohibiting 'any discrimination against, or persecution of, persons practicing a particular religion,' the state's commitment to neutrality regarding any religious issue is indicated by the state's political status to any religion. The article adheres to the traditional notion of religious and state separation. As a result, the Article violates the principle of secularism by declaring Islam to be the Republic's religion. This demonstrates that Islam is

²² *Khondker Delwar Hossain v Bangladesh Italian Marble Works and Others* (2010) 62 DLR (AD) 298 [117]

²³ Muhammad Rezaur Rahman, *The Compatibility of State Religion and Constitutional 30 Secularism Co-existence: Bangladesh in Context* (2020) 24(1) *Indian Journal of Secularism*

<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4004124&_cf_chl_f_tk=Q3aFPuB8bA63fa4RFE1OaGsoFNVdC9BggwqWe98UE8w-1783005532-1.0.1.1-X4Gg9vrjAMBgewTDQtrwm96B9ueJratTBxwiJSmEK24> accessed 20 May 2026

given special recognition by being designated as the state religion. Although the provision grants Hinduism, Buddhism, Christianity, and all other religions equal status, this remains unnamed. In this way, even if the Constitution prohibited the granting of favours to any religion and prohibited any form of political status to a religion, the contradiction in the treatment of different religions would remain. Having said that, the preceding arguments implying incompatibility can be refuted in four ways. First, the concept of neutrality cannot be forcedly construed as passive, in the sense that the state cannot take any positive action in support of a religion; second, by granting equal status to all religions, there is no question of preferential treatment; third, declaring a state religion is not equivalent to political recognition of that religion; and finally, the elimination of preferential treatment does not automatically imply separation of the state and religion. The following section will strengthen the case that state religion is incompatible with secularism by responding to the following potential criticisms.

Firstly, how Bangladesh will maintain religious neutrality is dependent on how the current constitutional arrangement is interpreted. The government interprets Article 12's religious neutrality as benevolent neutrality, which allows the state's religious affiliation as long as decisions are impartial and non-prejudicial to other religious communities. As a result, granting equal status to all religions serves as proof of state neutrality. Interpreting the concept of neutrality under Article 12 as allowing any form of recognition to religion, albeit collectively, is misleading.²⁴

Secondly, Article 2A, which prohibits any religion from receiving preferential treatment, has limitations. Article 2A has failed to provide true equality of status to all religions. The provision begins by stating that Islam is the state religion; then there is a 'comma', and a 'but' followed by the state shall ensure equal status and equal rights in practice; finally, the three (main) religions are mentioned, namely Hinduism, Buddhism, and Christianity, followed by 'and other religions'. Because 'but' as a negative conjunction indicates the disjunction between Islam and other denominations, the linguistic formation indicates that Islam is the state religion and all other religions have inferior status. The verb 'shall ensure' implies a positive obligation on the part of

²⁴ *Ibid*

the state to avoid the predominance that Islam as the state religion may create. As a result, it is plausible to argue that Article 2A is inconsistent by giving Islam preferential treatment.²⁵

Thirdly, Article 2A provides a symbolic recognition of religions rather than a political recognition of religions. However, the role of religion in Bangladesh, particularly in public life, public discourse, and public forums, has never been historically or politically symbolic. An intriguing example is the national television channel of Bangladesh (known as Bangladesh Television) broadcasting the recital from the Quran and other religious texts every day before transmission begins. Despite the mention of four religions in Article 2A, there is no practice of reciting other religious scriptures. If such recitals were merely symbolic, there would be no reason to recite from the Holy Quran every day. There is a clear pattern of preferential practice here, putting Islam in a revered position. As a result, the political nature and implication of the state religion clause are difficult to refute in the presence of clear provisions to protect religious freedom and in the absence of any such historical practice in favour of a symbolic recognition of religion in the Constitution.²⁶

Fourthly, the separation of religion and state is implied by the Constitution, but there is no explicit mention of it. Article 12 addresses the elimination of religious abuse for political purposes, a goal that cannot be met unless the state maintains some form of separation from religion. In other words, if the state begins to promote all religions rather than keeping its distance from religion, there will be a question of priority among the religions. For example, if the state decides to fund an Islamic institution, people of other faiths may question the state's motive, resulting in a religiously motivated political movement. As a result, if the state wishes to uphold the first two principles of secularism enshrined in Article 12, it must maintain some form of distance, if not strict separation, from all religions.²⁷

Finally, according to many, the purpose of the formulation and establishment of secularism is to establish a secular society. Religions have had to make many compromises to deal with the atheistic ideology. But only Islam survives with its own identity without compromising with this ideology. Islam is not just a religion like other religions. Some rituals are not called Islam. Islam gives guidance in all aspects of human life. Being a Muslim by mere religious identity, many

²⁵ *Ibid*

²⁶ *Ibid*

²⁷ *Ibid*

aspects of life are like any other way of life other than Islam, and one cannot become a real Muslim. In the Holy Qur'an, Almighty Allah says, O you who believe, enter Islam completely. Do not follow the footsteps of Satan. Undoubtedly, Satan is your open enemy.' (Surah Baqarah: 208). Allah also says, "O you who believe, fear Allah as you fear Him and do not die without becoming true Muslims". Here, it is said to fully submit to faith and Islam and die as a Muslim. In the Holy Qur'an, Allah has also declared that 'the only religion or way of life acceptable to Allah is Islam'. Elsewhere, Allah says, 'And whoever seeks or adopts a way of life other than Islam, it will never be accepted from him. And that person will be a failure and a great loser in the Hereafter. Religion will have nothing to do with state activities. This is a clear statement against the Quran and Sunnah. And the implementation of the policy of secularism at the state level, with nearly 90% Muslims in Bangladesh, is against democracy and human rights. From this clear declaration, Islam shines like daylight that there is no opportunity for Muslims to leave Islam partially or fully while remaining in Islam. There is no right to make religion a private matter. There is no way to accept any other religion or way of life besides Islam. There is no room to be irreligious at any stage of life. Muslims just have to be Muslims; there is no system to be a secular Muslim.

CONCLUSION

To summarise, the preceding discussion demonstrates that there is a clear inconsistency between the state religion clause in Article 2A and the secularism provision in Article 12. It has also demonstrated why the state religion clause in its current form is incompatible with the principles of secularism, nationalism, and democracy. The discussion makes it clear that the effectiveness of other basic principles that comprise the pro-secular constitutional framework will be jeopardised as long as the state religion clause remains in the Constitution. Furthermore, even though the basic principle of the constitution is socialism, Bangladesh is now a fully capitalist state with a capitalist policy. Thus, there are inconsistencies in the Constitution that can lead the country astray and off course. A constitution demonstrates a country's political and legal existence, along with the people's hopes and aspirations. When any of these elements is missing, the constitution is no longer ideal. Bangladesh's constitution has always exhibited this deficiency, emphasising only the political aspect. This is because the Constitution was drafted at an inappropriate time to address the political situation. As a result, there was the possibility of some flaws in the Constitution, which occurred. Another reason for the Constitution's

backwardness is political intention. That is, at various times, different ruling parties amended the Constitution in their favour. Some of the amended provisions have been removed, while others remain. Some positive provisions of the Constitution have lost their meaning because the Part to which they belong no longer has judicial enforceability. This Part's provisions cover the people's economic, social, and cultural rights. This Part, however, contains some self-contradictory provisions as well as provisions that should not be included in this Part. For example, Article 8 establishes some ambiguous Fundamental Principles for the State. As previously stated in the topic of Bangladesh's Constitution's backwardness, the principles mentioned in Article 8(1) are self-contradictory. In this case, how can they be applied on the primary grounds specified in Article 8(2)? As a result, this critical provision (Article 8) must be modified, and the fundamental principles must be established. It also bestows the authority stamp on the actions. Following suit, the legal aspects of the Constitution are carefully avoided. This is explained by the constitution's non-justiciability of fundamental objectives and directive principles of state policy, as well as fundamental rights. And this situation has persisted because the temporary majority has always excluded the rest of the polity from active participation in constitutional-making processes. Rather than the people deciding on the content of their constitution, those already in positions of power decide and impose it on them. Because an ideal constitution (one that comes from the people themselves) is required for democracy to succeed in Bangladesh and elsewhere, mistakes in the constitution-making processes must be corrected. It should be designed to function optimally, taking into account both the political and legal aspects of its provisions. If this is accomplished, it will help to protect individuals from violations of their rights as well as unjust regimes. As previously stated, the starting point for this study is that constitutional contradiction is a painful phenomenon that cannot be left to one segment of society. To avoid this possibility, any contradictions in the Constitution should be resolved, if necessary, in accordance with citizens' expectations.