Research Monograph

Human Rights under the Constitution of Bangladesh: A comparative analysis of the UK, USA, India and Bangladesh Constitution.

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LETTER OF TRANSMITTAL

September 5, 2022

To,
Mr. Sanjoy Pal
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Subject: Submission of research monograph.

Dear Sir,

It is a great pleasure to submit my research paper on **"Human Rights under the constitution of Bangladesh: A comparative analysis of the UK, USA, India and Bangladesh Constitution"**. I have given my best efforts to finish the research with relevant information that I have collected from various source.

I have concentrated my best effort to achieve the objectives of the work and hope that my endeavor will serve the purpose. I shall be highly grateful and obliged if you kindly accept my research and evaluate it with your sagacious judgment.

Sincerely yours,

……

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ACKNOWLEDGEMENT

I am deeply gratitude to Almighty Allah for providing me everything that required for completing my research work.

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Secondly, I am grateful to my supervisor Mr. Sanjoy Pal to allow me and support to prepare this research.

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……

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DECLARATION

I do hereby declare that the research monograph entitled **"Human Rights under the constitution of Bangladesh: A comparative analysis of the UK, USA, India and Bangladesh Constitution"** submitted to the Department of Law in Sonargaon University in the fulfillment of the requirements for the decree of Bachelor of Laws with Honor's (LLB) is carried out by me under the guidance and supervision of Mr. Sanjoy Pal, Department of Law. Research method and approaches strictly have been followed during undertaking the work. The work I have presented does not breach any copyright. I further undertake to indemnify the University against any loss or damage arising from breach of the foregoing obligations.

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CERTIFICATE OF THE RESEARCH SUPERVISOR

The undersigned certify that the research paper entitled **"Human Rights under the constitution of Bangladesh: A comparative analysis of the UK, USA, India and Bangladesh Constitution"**, a study has been carried out by Md. Asiqul Islam (Student ID No. LLB1602008027), under my constant supervision as per the rules regulations stipulated by the Sonargaon University in the partial fulfillment of the requirements for the degree of LL.B (Hon's).

Signature of supervisor:

……

Mr. Sanjoy Pal

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ABBREVIATIONS

ACC- Anti Corruption Commission

AD- Appellate Division

ADC- Appellate Division Cases

ASK- Ain O Salish Kendra

ATS- Alien Tort Statute

BBC- British Broadcast Company

BCE- Before the Common Era

BLAST- Bangladesh Legal Aid and Services Trust

BLD- Bangladesh Legal Decisions

CAT- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CMW- The Committee on Migrant Workers

CP- Civil and Political

CPR- Civil and Political Rights

CRPD- The Committee on the Rights of Persons with Disabilities

DAW- Division for the Advancement of Women

DLR- Dhaka Law Reports

ECHR- European Court of Human Rights

ELCOP- Empowerment through Law of the Common People

ESC- Economic, Social and Cultural

ESCR- Economic, Social, and Cultural Rights

FIR- First Information Report

FPSP- Fundamental Principles of State Policy

HRA- Human Rights Act

ICC- The International Criminal Court

ICCPR- International Covenant on Civil and Political Rights

ICEDAW- International Convention on the Elimination of all forms of Discrimination Against Women

ICERD- International Convention on the Elimination of all forms of Racial Discrimination

ICESCR- International Covenant on Economic, Social and Cultural Rights

ICJ- The International Court of Justice

ICPPED- International Convention for the Protection of All Persons from Enforced Disappearance

ICRMW- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

IDP- Internally Displaced People

IHRL- International Human Rights Law

ILO- International Labour Organisation

MP- Member of Parliament

NCTB- National Curriculum and Textbook Board

NGO- Non Government Organisation

NHRC- National Human Rights Commission

NLAO- National Legal Aid Organization

OHCHR- Office of the High Commissioner on Human Rights

OP- Optical Protocol

PHRA- Protection of Human Rights Act

PIL- Public Interest Litigation

PWD- Public Works Department

RAB- Rapid Action Battalion

SC- Supreme Court

SEP- Stanford Encyclopedia of Philosophy

UDHR- Universal Declaration of Human Rights

UN- United Nations

UNCRC- United Nations Convention on the Rights of the Child

UNHCHR- UN High Commissioner for Human Rights

UNHRC- United Nation Human Rights Council

UNICEF- United Nations International Children's Emergency Fund

UPR- Universal Periodic Review

UK- United Kingdom

US- United States

USA- United States of America

USC- United States Code

USCA- United States Code Annotated

WHO- World Health Organization

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24. Kiobel v. Royal Dutch Petroleum Co., 621 F.3d 111 (2d Cir. 2010).
25. Kochuni v. Madras (AIR, 1959 (SC) 725).
26. Masdar Hossain v. Bangladesh [(1998) 13 BLD (HCD) 558]
27. Maudoodi v. Government [PLD 1964 (SC) 673]

28. M Saleem Ullah v. Bangladesh [47 DLR (1995) 218]
29. NCTB v. AM Samsuddin and others [48 DLR (AD) (1996) 184]
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32. Vishaka and others v. State of Rajasthan and others (1997) 6 SCC 241, AIR 1997 SC3011, (1998) BHRC 261, (1997) 3 LRC 361, (1997) 2 CHRLD 202.
33. 71 U.S. 2; 18 L. Ed. 281; 1866 U.S. LEXIS 861; 4 Wall. 2.

ABSTRACT

Today humanity is threatened by wars, armed conflicts, confrontations and power struggles which lead to problems of varied dimensions-social-legal, economic, political and humanitarian.

This paper is an attempt to explore human rights which is incorporated in our constitution on the basis of international human rights law. In spite of ratification of many international human rights instruments, every year many peoples are deprived to exercise human rights because of political unrest. The Human Rights of Bangladesh Constitution themselves have no fixed content, most of them are empty vessels into which is generation must pour its content in the light of experience. The study intends to examine violation of human rights in the light of present situation. Furthermore, this paper attempts to examine the general criticisms of the enforcement of human rights and desirability of judicial activism in the fulfillment of such right and also been made to explain the topic with the help of illustration, problems and leading cases. This paper focuses on the different kinds of Human Rights laws adopted in the countries United Kingdom, United States of America, India and Bangladesh. The comparative discussions of the Human Rights law in these countries have been discussed for the proper understanding of the people. This paper will also focus on the provision and jurisdictions of human rights instruments in the above-mentioned countries. The main issues relating to the protection of human rights, including the role of the courts, the constitutional status of human rights provisions, and the ways in which way rights are protected will be discussed. Though implementation of Human Rights mechanisms is varied in nature but within the framework of the national constitution the basic human rights are protected and promoted. Thus, this project is the comparative study of the Human Rights and Constitutional Laws are provided in the framework of the national constitution among the countries United Kingdom, United States of America, India and Bangladesh. The comparative study will thoroughly show the similarities and dissimilarities in the exercise of human rights and constitutional laws of the nations.

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Chapter I

INTRODUCTION

1.1 Introduction

Human rights are moral principles or norms[1] for certain standards of human behavior and are regularly protected in municipal and international law. They are commonly understood as inalienable,[2] fundamental rights "to which a person is inherently entitled simply because she or he is a human being"[3]and which are "inherent in all human beings",[4] regardless of their age, ethnic origin, location, language, religion, ethnicity, or any other status. They are applicable everywhere and at every time in the sense of being universal, and they are egalitarian in the sense of being the same for everyone. They are regarded as requiring empathy and the rule of law[5] and imposing an obligation on persons to respect the human rights of others, and it is generally considered that they should not be taken away except as a result of due process based on specific circumstances.

An instrument 'Magna Carta' named the great Charter was signed in 1215 at Runimid. This is the first charter where it is written that nobody can arrest without trial and the king also within the trial. This is the first instrument of human rights where all of the international human rights instruments are framed on the basis of that 'Magna Carta'[6].

This dissertation is mainly focusing on the features of fundamental rights in the constitution of Bangladesh inspired by the Universal Declaration of Human Rights, 1948[7];

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[1] James Nickel, with assistance from Thomas Pogge, M.B.E. Smith, and Leif Wenar, 13 December 2013, Stanford Encyclopedia of Philosophy, Human Rights. Retrieved 14 August 2014

[2] The United Nations, Office of the High Commissioner of Human Rights, What are human rights?. Retrieved 14 August 2014

[3] Sepulveda et al. (2004), p. 3.

[4] Burns H. Weston, 20 March 2014, Encyclopædia Britannica, human rights. Retrieved 14 August 2014.

[5] Gary J. Bass (book reviewer), Samuel Moyn (author of book being reviewed), 20 October 2010, The New Republic, The Old New Thing. Retrieved 14 August 2014

[6] *Magna Carta* or "Great Charter" was one of the world's first documents containing commitments by a sovereign to his people to respect certain legal rights.

[7] UDHR, 1948, UN General Assembly resolution 217 A.

the constitution of Bangladesh enumerated some basic civil and political rights common to most liberal democracies and also insures the rights to constitutional remedies for the protection of these rights. In addition, the fundamental rights of the constitution of Bangladesh are aimed at overturning the inequalities of past social practice.

1.2 Objectives of the Research

The aim of the paper is human rights insight on the constitution of Bangladesh is based on the principles of liberty, equality, fraternity and justice and a comparative analysis of the UK, USA, India and Bangladesh Constitution. For achieving aim I have undertaken a concise study of all the journals and books which are linked with the provisions of the constitution manifest great respect for human dignity, commitment to equality and non-discrimination and concern for the weaker section in society.

- To get a better understanding of human rights and human rights protected by Bangladesh constitution.
- To assess the protection system of Bangladesh.
- To find out the challenges to effective enforcement of human rights in Bangladesh.
- To comparative analysis of the UK, USA, India and Bangladesh Constitution.

1.3 Limitation of the Research

Although the research has reached its aims, there were some unavoidable limitations and shortcomings.

First, I am an amateur researcher who is not even expert on the field of study; therefore, it was a tough task to assess the objectives perfectly within short time-limit.

Second, all the data I used in this study is mostly self-reported that is limited by the fact that it rarely can be independently verified.

1.4 Problem Statement

The constitution of Bangladesh guarantees all the major internationally recognized human right[8], however, violation of human rights has been a common practice in a developing country like Bangladesh on the other hand human rights in developed county like USA and UK are very effective. The primary goal of the study is to assess framework of human rights in constitution of Bangladesh and its paradoxes.

1.5 Literature Review

There are some basic bases have been stated for universal human rights, from where human rights have derived. Moral principles or norms[9] are the basis of human rights that describe certain standards of human behavior, and these rights are protected as legal rights in municipal and international law.[10] They are generally understood as inalienable human rights "to which a person is inherently entitled simply because she or he is a human being,"[11] and which are "inherent in all human beings".[12]

1.6 Research Methodology

This research is generally a non-empirical analysis. The main sources of this study include secondary sources like textbooks, reports, relevant national and international legislations, case studies, some important daily newspapers, online documents and some publications. The study has also relied on decided cases of Apex Court of Bangladesh and the Subcontinent. It is a legal research, so international and national judicial decisions, related on this work are enumerated. Several books, articles in book, or articles in journal, internet source are taken as reference.

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[8] Islam, Md. Shariful, (2013) *Human Rights and Governance: Bangladesh, Hong Kong: Asian Legal Resource Center.*

[9] Nickel, James & Pogge, Thomas, (2013) *Human Rights, Stanford, Stanford Encyclopedia of Philosophy.*

[10] Nickel, James, (2010) *Human Right, The Stanford Encyclopedia of Philosophy.*

[11] The United Nations, Office of the High Commissioner of Human Rights, *What are human rights? Retrieved August 14, 2014.*

[12] Burns H. Weston, March 20, 2014, *Encyclopedia Britannica, human rights, Retrieved August 14, 2014.*

Chapter II

GENERAL CONCEPTS OF HUMAN RIGHTS

2.1 Defining Human Rights

The term "human right" which does not mean any right is used in a special sense. Human rights are those of legal and moral rights which can be claimed by any person for the very reason that he is a human being.[13] These rights come with birth and are applicable to all people throughout the world irrespective of their race, colour, sex, language or political or other opinion. These are, therefore, those rights that are inherent in human person and without which they cannot live as human beings.' Jaques Maritain says, "The human person possesses rights because of the very fact that it is a person, a whole, a master of itself and its acts and which consequently is not merely a means to an end but an end which must be treated as such these are things which are owed to man because of the very fact that he is man.

2.2 Doctrine of Human Rights

The doctrine of human rights has been highly influential within international law and global and regional institutions.[14] Actions by states and non-governmental organisations form a basis of public policy worldwide. The idea of human rights suggests that "if the public discourse of peacetime global society can be said to have a common moral language, it is that of human rights".[15]The strong claims made by the doctrine of human rights continue to provoke considerable skepticism and debates about the content, nature and justifications of human rights to this day. The precise meaning of the term *right* is controversial and is the subject of continued philosophical debate;[16] while there is consensus that human rights

[13] "Sepúlveda et al. 2004", p. 3 copy", Archived from the original on March 28, 2012.

[14] The United Nations, Office of the High Commissioner of Human Rights, What are human rights?. Retrieved 14 August 2014

[15] Beitz, Charles R. (2009), *The Idea of Human Rights*, pp-1.

[16] Shaw, I. Seaga (2008), *Human Rights Journalism Advances in Reporting Distant Humanitarian Interventions*, pp-265.

encompasses a wide variety of rights[17] such as the right to a fair trial, protection against enslavement, prohibition of genocide, free speech[18] or a right to education, there is disagreement about which of these particular rights should be included within the general framework of human rights;[19] some thinkers suggest that human rights should be a minimum requirement to avoid the worst-case abuses, while others see it as a higher standard.[20, 21] It has also been argued that human rights are "God-given", although this notion has been criticized.[22]

2.3 Historical Background of Human Rights

The historical context of human rights can be seen from a wide range of perspectives. The first approach traces the deeper origins to ancient religious and philosophical concepts of compassion, charity, justice, individual worth, and respect for all life found in Hinduism, Judaism, Buddhism, Confucianism, Christianity and Islam. Precursors of human rights declarations are found in the ancient codes of Hammurabi in Babylon (about 1772 BCE), the Charter of Cyrus the Great in Persia (about 535 BCE), edicts of Ashoka in India (about 250 BCE), and rules and traditions of pre-colonial Africa and pre-Columbian America.[23]

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[17] Burns H. Weston, 20 March 2014, Encyclopædia Britannica, human rights. Retrieved 14 August 2014.

[18] Macmillan Dictionary, human rights – definition. Retrieved 14 August 2014, "the rights that everyone should have in a society, including the right to express opinions about the government or to have protection from harm"

[19] James Nickel, with assistance from Thomas Pogge, M.B.E. Smith, and Leif Wenar, 13 December 2013, Stanford Encyclopedia of Philosophy, Human Rights. Retrieved 14 August 2014

[20] James Nickel, with assistance from Thomas Pogge, M.B.E. Smith, and Leif Wenar, 13 December 2013, Stanford Encyclopedia of Philosophy, Human Rights. Retrieved 14 August 2014

[21] *International technical guidance on sexuality education: an evidence-informed approach (PDF). Paris: UNESCO. 2018. p. 16. ISBN 978-9231002595.*

[22] *Niose, David (6 October 2016). "The Danger of Claiming That Rights Come From God". Psychology Today. Retrieved 18 May 2022.*

[23] Micheline Ishay, *The History of Human Rights: From Ancient Times to the Globalization Era*, With a New Preface, New York: Norton and Co., 2008. See also Micheline Ishay (ed.), *The Human Rights Reader: Major Political Essays, Speeches, and Documents from Ancient Times to the Present*, Second Edition, New York: Routledge, 2007. Another interesting compilation may be found in Jeanne Hersch (ed.), *Birthright of Man*, UNESCO, 1969. The French edition was publishe.

Ancient peoples did not think of universal human rights in the same way we do today.[24] The true forerunner of human-rights discourse was the concept of natural rights which appeared as part of the medieval natural law tradition that became prominent during the European Enlightenment. From this foundation, the modern human rights arguments emerged over the latter half of the 20th century.[25]

17th -century English philosopher John Locke discussed natural rights in his work, identifying them as being "life, liberty, and estate (property)", and argued that such fundamental rights could not be surrendered in the social contract. In Britain in 1689, the English Bill of Rights and the Scottish Claim of Right each made a range of oppressive governmental actions, illegal.[26] Two major revolutions occurred during the 18th century, in the United States (1776) and in France (1789), leading to the United States Declaration of Independence and the French.

2.4 Concepts of Human Rights

Concept of Human Rights owes its origin to the following:

- The Magna Carta of 1215
- The Habeas Corpus Act, 1679
- The Bill of Rights of 1689

2.5 The Civil and Political Rights

The civil and political rights include five relating to physical integrity (rights to life; freedom from torture; freedom from slavery; freedom from arbitrary arrest or detention; and the right to humane treatment under detention). Five other rights relate to the individual's autonomy of thought and action (namely, freedom of movement and residence; prohibition of expulsion of aliens; freedom of thought, conscience and religious belief; freedom of expression; and the right to privacy). Another four rights concern the administration of justice

[24] *Freeman Michael (2002). Human Rights: An Interdisciplinary Approach. 2002, pp. 15–17.*

[25] *"Britain's unwritten constitution" British Library. Retrieved 27 November 2015.*

[26] Mayer, Ann Elizabeth (2000) pp- 110.

(non-imprisonment for debt; fair trial—for which 16 additional rights are enumerated—; the right to personhood under the law; and the right to equality before the law). Six other civil & political rights relate to participation in civil society (freedom of assembly; freedom of association; the right to marry and found a family; rights of children; the right to practice a religion; and—as an exception to free speech—the prohibition of war propaganda and hate speech constituting incitement). The final sub-set of these rights is the four relating to political participation (namely, the right to hold public office; to vote in free elections; to be elected to office; and to equal access to public service).

2.6 The Economic, Social and Cultural Rights

The economic, social and cultural rights reaffirmed in the International Bill of Human Rights include four workers' rights (the right to gain a living by work freely chosen and accepted; the right to just and favorable conditions of work; the right to form and join trade unions; and the right to strike). Four others concern social protection (social security; assistance to the family, mothers and children; adequate standard of living, including food, clothing and housing; and the highest attainable level of physical and mental health). The remaining rights are the six concerning education and culture (the right to education directed towards the full development of the human personality; free and compulsory primary education; availability of other levels of education; participation in cultural life; protection of moral and material rights of creators and transmitters of culture, and the right to enjoy the benefits of scientific progress).

Chapter III

PROTECTION OF HUMAN RIGHTS

3.1 The United Nations

The United Nations (UN) is the only multilateral governmental agency with universally accepted international jurisdiction for universal human rights legislation.[27] All UN organs have advisory roles to the United Nations Security Council and the United Nations Human Rights Council, and there are numerous committees within the UN with responsibilities for safeguarding different human rights treaties. The most senior body of the UN with regard to human rights is the Office of the High Commissioner for Human Rights. The United Nations has an international mandate to:

3.2 Human Rights Council

The UN Human Rights Council, created in 2005, has a mandate to investigate alleged human rights violations.[28] 47 of the 193 UN member states sit on the council, elected by simple majority in a secret ballot of the United Nations General Assembly. Members serve a maximum of six years and may have their membership suspended for gross human rights abuses. The council is based in Geneva, and meets three times a year; with additional meetings to respond to urgent situations.[29]

Independent experts (*rapporteurs*) are retained by the council to investigate alleged human rights abuses and to report to the council.

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[27] Ball, Olivia; Gready, Paul (2007). *The No-Nonsense Guide to Human Rights. New Internationalist. ISBN 978-1-904456-45-2.*

[28] *"United Nations Rights Council Page". United Nations News Page.*

[29] Ball, Olivia; Gready, Paul (2007). *The No-Nonsense Guide to Human Rights. New Internationalist. ISBN 978-1-904456-45-2.*

The Human Rights Council may request that the Security Council refer cases to the International Criminal Court (ICC) even if the issue being referred is outside the normal jurisdiction of the ICC.[30]

3.3 UN Treaty Bodies

In addition to the political bodies whose mandate flows from the UN charter, the UN has set up a number of *treaty-based* bodies, comprising committees of independent experts who monitor compliance with human rights standards and norms flowing from the core international human rights treaties. They are subsidiary to the United Nations, though in practice they are closely intertwined with the United Nations system and are supported by the UN High Commissioner for Human Rights (UNHCHR) and the UN Centre for Human Rights.[31] The UN treaty bodies are as follow:

- ***The Human Rights Committee-*** The International Covenant on Civil and Political Rights (ICCPR).
- ***The Committee on Economic, Social and Cultural Rights-*** The Committee on Economic, Social and Cultural Rights monitors the International Covenant on Economic, Social and Cultural Rights (ICESCR).
- ***The Committee on the Elimination of Racial Discrimination-*** The Committee on the Elimination of Racial Discrimination monitors the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).
- ***The Committee on the Elimination of Discrimination-*** The Committee on the Elimination of Discrimination against Women monitors the International Convention on the Elimination of all Forms of Discrimination Against Women (ICEDAW).

[30] The Security Council referred the human rights situation in Darfur in Sudan to the ICC despite the fact that Sudan has a functioning legal system

[31] Shaw, I. Seaga (2008), Human Rights Journalism Advances in Reporting Distant Humanitarian Interventions, pp-311.

- ***The Committee Against Torture-*** The Committee Against Torture monitors the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).
- ***The Committee on the Rights of the Child-*** The Committee on the Rights of the Child monitors the United Nations Convention on the Rights of the Child (CRC or UNCRC).
- ***The Committee on Migrant Workers-*** The Committee on Migrant Workers Convention monitors the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).
- ***Committee on the Rights of Persons with Disabilities-*** The Committee on the Rights of Persons with Disabilities (CRPD).
- ***The Committee on Enforced Disappearances-*** The Committee on Enforced Disappearances monitors the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).

3.4 International Courts

The human rights enshrined in the UDHR, the Geneva Conventions and the various enforced treaties of the United Nations are enforceable in law. In practice, many rights are very difficult to legally enforce due to the absence of consensus on the application of certain rights, the lack of relevant national legislation or of bodies empowered to take legal action to enforce them.

3.4.1 The International Court of Justice (ICJ)

ICJ is the United Nations' primary judiciary body.[32] It has worldwide jurisdiction. It is directed by the Security Council. The ICJ settles disputes between nations. The ICJ does not have jurisdiction over individuals.

[32] *"Cour internationale de Justice – International Court of Justice | International Court of Justice". icj-cij.org.*

3.4.2 The International Criminal Court (ICC)

ICC is the body responsible for investigating and punishing war crimes, and crimes against humanity when such occur within its jurisdiction, with a mandate to bring to justice perpetrators of such crimes that occurred after its creation in 2002. A number of UN members have not joined the court and the ICC does not have jurisdiction over their citizens, and others have signed but not yet ratified the Rome Statute, which established the court.[33]

[33] *United Nations. Multilateral treaties deposited with the Secretary-General: Rome Statute of the International Criminal Court. Retrieved 8 June 2007.*

Chapter IV

INTERNATIONAL HUMAN RIGHTS LAW

(UK, USA AND INDIA)

4.1 Human Rights Law in United Kingdom

The Human rights in the United Kingdom guarantees the provisions of fundamental rights in the law of the constitution for every person in the country. An integral component of the UK constitution, human rights has been derived from the common law, from the statutes like the Magna Carta of 1215, the historic Bill of Rights 1689 and the United Kingdom Human Rights Act 1998. It is true that the Codification of human rights is a recent development in the UK. In this nation now the main source of jurisprudence is the Human Rights incorporated the historic European Convention on Human Rights into the domestic litigation[34, 35] of UK.

Christine Goodwin v. United Kingdom, in this ECHR found a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights; a violation of Article 12 (right to marry and to found a family).

4.1.1 Salient Features of The Human Rights Act, 1998

1) The UK Human Rights Act 1998 ensures the fundamental rights and freedoms that each of the citizen of United Kingdom can avail.

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[34] *"The UK and the European Court of Human Rights". Equality and Human Rights Commission. Spring 2012. p. 9. Retrieved 16 March 2016.*

[35] The United Kingdom consists of four countries and three distinct legal systems: England and Wales, Scotland and Northern Ireland: *"A Guide to the UK Legal System". Hauser Global Law School Program, New York University School of Law. November 2005. Retrieved 16 March 2016.* and *"The Legal System of the United Kingdom". The Chartered Institute of Legal Executives. Archived from the original on 13 March 2016. Retrieved 16 March 2016.*. These jurisdictions have particular human rights considerations of their own, arising from differences in English law, Scots law and Northern Ireland law.

2) This creates an obligation on the British courts to take case law from the European court of human rights into account. It refers to interpret the legislation in a way that is compatible with the convention on human rights.
3) It places an obligation on the public authorities, including the courts and tribunals and some private organisations who exercise public functions. It has to act in a way that is compatible with human rights.
4) It requires the courts to pay particular regard to the importance of the right to freedom of expression aiming to protect freedom of the press.
5) This also requires the courts to recognise the importance of the "freedom of thought, conscience and religion" whenever a case involves with a religious organisation.

4.1.2 Main Provisions of the Human Rights Act, 1998

The act HRA, 1998 incorporates into the British law the key elements of the European convention on human rights including. The important articles of the Convention Rights are as follows:[36]

- Article 2: Right to life.
- Article 3: Prohibition of torture.
- Article 4: Prohibition of slavery and forced labour.
- Article 5: Right to liberty and security.
- Article 6: Right to a fair trial.
- Article 7: No punishment without law.
- Article 8: Right to respect for private and family life.
- Article 9: Freedom of thought, conscience and religion.
- Article 10: Freedom of expression.
- Article 11: Freedom of assembly and association.
- Article 12: Right to marry.
- Article 14: Prohibition of discrimination.

[36] The Articles of the HRA, 1998.

Protocol No. 1

- Article 1: Protection of property.
- Article 2: Right to education.
- Article 3: Right to free elections.

Protocol No. 6

- Article 1: Abolition of the death penalty.
- Article 2: Death penalty in time of war.

4.2 Human Rights Law in United States of America

The Human rights in the United States of America comprise a series of rights which are legally protected by the Constitution of the United States. The constitution protects the Bill of Rights, the enactments in the state constitutions, the treaty and customary international law, the legislations enacted by the Congress and the state legislatures, and state referenda and the initiatives of the US citizen. The Federal Government of the US has, through a ratified constitution, guaranteed those unalienable rights to its citizens and to some extent even to the non-citizens also. These rights have developed over time through the constitutional amendments, newer legislations, and also judicial precedent.

In *Doe v. Exxon Mobil Corp.,* the plaintiffs' tort claims may proceed regardless of what ultimately happens to their ATS claims. In July 2011, a divided panel of the D.C. Circuit decided that the ATS claims in that case could proceed to trial and also reversed the district court's dismissal of the state law tort claims. As a result, no matter what the Court decides in Kiobel, the plaintiffs will have viable claims on remand in the Exxon case.

4.2.1 The American Declaration of Independence 1776

The preamble to the American Declaration of Independence proclaimed for all human beings the two fundamental principles:

Firstly, “That all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness.”

Secondly, “That to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the government. That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it.”

i) We find the following human rights elements in the document;
ii) Equality of Man;
iii) Right to life, liberty and pursuit of happiness, and
iv) Obligation of the state to ensure theses rights.

4.2.2 Human Rights in The Constitution of United States

The Constitution recognises a number of inalienable human rights, including freedom of speech, freedom of assembly, freedom of religion, the right to keep and bear arms, freedom from cruel and unusual punishment, and the right to a fair and speedy trial by jury.

The original text of Constitution of the United States (1788) contained eg: the right to trial by jury (Article III, s 2).

4.2.3 The American Bill of Rights 1791

The drafter’s of the US constitution influenced by Mason’s Virginia declaration (House of Representatives was set up according to this plan) included the protection of these minimum rights. This was affected by a number of amendments (10 amendments in a day) to the constitution.

- Amendment 1-10: comprise The Bill of Rights
- The Thirteenth Amendment (1865) abolished slavery.
- The Fourteenth Amendment (1968) addresses citizenship rights, due process (which prohibits state and local government officials from depriving persons of life, liberty, or property without legislative authorisation) and equal

protection of the laws (which requires each state to provide equal protection under the law to all people within its jurisdiction).

- The Fifteenth Amendment (1870) prohibits the federal and state governments from denying a citizen the right to vote based on that citizen's 'race, color, or previous condition of servitude'.
- The Nineteenth Amendment (1920) gave women the vote by prohibiting any US States citizen from being denied the right to vote on the basis of sex.

4.3 Human Rights Law in India

Human rights in India are an issue complicated by the country's large size and population as well as its diverse culture, despite its status as the world's largest sovereign, secular, democratic republic. The Constitution of India provides for Fundamental rights, which include freedom of religion. Clauses also provide for freedom of speech, as well as separation of executive and judiciary and freedom of movement within the country and abroad. The country also has an independent judiciary[37] as well as bodies to look into issues of human rights.[38]

4.3.1 Human Rights in the Constitution of India

The Constitution of the Republic of lndia which came into force on 26th January 1950 with 395 Articles and 8 Schedules is one of the most elaborate fundamental laws ever adopted. The Preamble to the Constitution declares lndia to be a Sovereign, Socialist, Secular and Democratic Republic. The term 'democratic' denotes that the Government gets its authority from the will of the people. It gives a feeling that they all are equal "irrespective of the r race, religion, language, sex and culture." The Preamble to the Constitution pledges justice, social, economic and political, liberty of thought, expression, belief, faith and

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[37] *"No Worry Till Judiciary's Independence is Maintained: Chief Justice of India". NDTV.com. Archived from the original on 12 August 2019. Retrieved 17 June 2019.*

[38] *"Act in Block Grant teachers' issue: NHRC to OHRC". dailypioneer.com. Archived from the original on 27 March 2019. Retrieved 17 June 2019.*

worship, equality of status and of opportunity and fraternity assuring the dignity of the individual and the unity and integrity of the nation to ail its citizens.

The Fundamental Rights are included in part III of the Constitution (Articles 12-35). These rights were finalized by a committee of the Constituent Assembly headed by Sardar Vallabhbhai Patel.[39] These rights have not been defined in the constitution but it has been agreed upon that they are essential.[40] That is why they are named as Fundamental Rights because they are the most essential rights and are above all ordinary laws. Thus unlike ordinary laws they can be altered only through a constitutional amendment.

In *ADM Jabalpur v. Shukla*, Justice Beg observed "the object of making certain general aspects of rights fundamental is to guarantee them against illegal invasion of these rights by executive, legislative, or judicial organ of the State." Earlier, Chief Justice Subba Rao in *Golak Nath v. State of Punjab* had rightly observed, "Fundamental rights are the modern name for what have been traditionally known as natural rights,"

4.3.2 Salient Features of The Protection of Human Rights Act, 1993

The Human Rights Act, PHRA has the following salient provisions to protect the people's basic rights and stop any kind of human rights violation.

1) The Protection of Human Rights Act, 1993, has the provision of forming the Human Rights Commissions on both, national and all states level.
2) The National Act lays down the different constituents and workings of the National Human Rights Commission (NHRC).
3) The act lays down the functions and powers of both of the national and state commissions.
4) The both of the national and state level commissions perform 10 functions like - to inquire, suo motu or on petition, the complaint of violation of human rights. The commission can take action against abetment or negligence in the prevention of any violation, by any public servant. To promote the awareness of the rights the study of the treaties and recommendations based on them and

[39] Sardar Vallabhbhai Patel served as the first Deputy Prime Minister of India from 1947 to 1950.

[40] by way of an application direct to the supreme court under Article 32, part III.

the spread of Human Rights literacy among the masses through following different ways are also the function of the commission. The commission has the duty to intervene in the proceedings that involves any allegation of human rights violation pending in a court. But in this case they have to take the approval of the said court. The commissions review the conditions of the prisoners in the jails of different states and recommend the state government accordingly.

5) The Act also defines the formation and constitution of human rights commission in different states of the country.
6) The Act describes in detail the mechanisms of establishment of Human Rights courts for providing speedy trials against offenses arising out of human rights violation.

Chapter V

HUMAN RIGHTS IN THE CONSTITUTION OF BANGLADESH

5.1 Human Rights in Bangladesh

Human rights in Bangladesh are enshrined as fundamental rights in Part III of the Constitution of Bangladesh. However, constitutional and legal experts believe many of the country's laws require reform to enforce fundamental rights and reflect democratic values of the 21st century. Proposed reforms include strengthening parliamentary supremacy, judicial independence, the separation of powers, repealing laws which restrain freedom of the press and disbanding security agencies which violate civil liberties.[41, 42, 43, 44]

Even though Bangladesh has Islam as its state religion and has constitutional references to Hindus, Christians and Buddhists; the political system is modeled as a secular democracy. Governments have generally respected freedom of religion, a cornerstone of the Bangladeshi constitution. However, the police have been slow in responding to and investigating attacks against minorities, opposition activists & supporters and purportedly brutally suppress lawful protest against the government. According to Human Right Watch, around five hundred people have been disappeared since last ten years. In southeastern Bangladesh, the Chittagong Hill Tracts remains a militarized region due to a historical insurgency. Tribal people in Bangladesh have demanded constitutional recognition.[45]

In *Bangladesh v. Professor Golam Azam and others*, the Appellate Division held that, 'Citizenship, though not mentioned as a fundamental right in our Constitution, is to be considered as the right of all rights as on it depends one's right to fundamental rights expressly provided for a citizenship in Part III of the Constitution and his right to seek Court's protection of those rights.' It also observed that, 'Even a diehard pro-Pakistani, born

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[41] Rounaq Jahan. *"The Parliament of Bangladesh: Challenges and way forward". The Daily Star (Opinion). Retrieved 2017-07-11.*

[42] Professor M Rafiqul Islam. *"Independence of the judiciary- the Masdar case". The Daily Star. Retrieved 2017-07-11.*

[43] *"Bangladesh: Dissenting voices trapped between fear and repression | Amnesty International". Amnesty.org. 2017-05-02. Retrieved 2017-07-11.*

[44] *"After Narayanganj verdict, Bangladesh should disband RAB | Human Rights Watch". Hrw.org. Retrieved 2017-07-11.*

[45] *"Indigenous people demand constitutional recognition". The Daily Star. 2010-03-10. Retrieved 2017-07-11.*

in this country, is entitled to be a citizen of Bangladesh if he fulfills the requirements under Article 2 and is not disqualified under clause (1) of Article 2B.

5.2 Human Rights Provisions in the Constitution of Bangladesh Influence of the International Bill of Rights

Though Bangladesh did not acquire membership of the UN until 1974,[46] both the UN Charter and the International Bill of Rights (comprising the UDHR, ICCPR and the ICESCR) deeply influenced the drafting of the Constitution of Bangladesh. Only a few constitutions in the world have directly endorsed the UDHR[47] and the UN Charter.[48] The Constitution of

[46] Bangladesh acquired UN membership on 17 September 1974. United Nations, <http://www.un.org/en/members/.>.

[47] See, for example, the Constitution of the Republic of Ivory Coast of 1960 (Preamble), the Constitution of the Republic of Senegal of 1963, the Constitution of the Democratic Republic of Sao Tom' and Principe of 1975 (Article 17), the Constitution of Portuguese Republic of 1976 (Article 16), The Spanish Constitution of 1978 (Article 10), the Constitution of Somali Democratic Republic of 1979 (Article 19), the Constitution of the United Republic of Tanzania of 1984 (Article 9), the Political Constitution of the Republic of Nicaragua of 1987 (Article 46), the Constitution of the Republic of Haiti of 1987 (Preamble and Article 19), the Constitution of Afghanistan of 2004 (Preamble), the Constitution of the Republic of Benin of 1990 (Preamble), Fundamental Law of Equatorial Guinea of 1991 (Preamble), the Constitution of Romania of 1991 (Article 20), the Constitution of the Republic of Rwanda of 1991 (Preamble), the Constitution of the Gabonese Republic of 1991 (Preamble), the Constitution of Mali of 1992, the Constitution of Burkina Faso of 1991 (Preamble), the Constitution of the Republic of Burundi of 1992 (Preamble and article 10), the Constitution of the Federal Republic of Comoros of 1992 (Preamble), the Constitution of the Fourth Republic of Togo of 1992 (Preamble), the Constitution of Cambodia of 1993 (Article 31), the Constitution of the Republic of Moldova of 1994 (Article 4), the Constitution of the Republic of Niger of 1996 (Preamble), the Constitution of the Republic of Chad of 1996 (Preamble).

[48] See, for example, the Constitution of Bangladesh of 1972 (Article 25), Constitutional Law of the People's Republic of Angola of 1975 (Article 31), the Constitution of the People's Democratic Republic of Algeria of 1989 (Article 28), the Constitution of the Republic of Benin of 1990 (Preamble), Fundamental Law of Equatorial Guinea of 1991 (Preamble), the Constitution of the Federal Republic of Comoros of 1992 (Preamble), the Constitution of the Republic of Ghana of 1992 (Article 40), the Constitution of the Fourth Republic of Togo of 1992 (Preamble), the

Constitution of Cambodia of 1993 (Article 31), the Constitution of the Republic of Moldova of 1994 (Article 8), the Constitution of the Republic of Chad of 1996 (Preamble), the Constitution of Afghanistan of 2004 (Preamble).

Bangladesh does not explicitly mention the UDHR or the two covenants. But the Constitution has directly endorsed, under article 25, the principles enunciated in the UN Charter as the principles upon which Bangladesh must base its international relations. Furthermore, the Constitution substantially incorporated various provisions of the International Bill of Rights in different forms in different chapters.

Following the ICCPR and ICESCR model of splitting human rights provisions into two distinct groups, many of the constitutions adopted after 1966 inserted provisions regarding human rights in two distinct places of the constitution and likewise installed two different enforcement mechanisms. For example, it appears that splitting human rights by the UN into two covenants led the constitution-makers of Bangladesh to slot human rights into two different forms: civil and political (CP) rights are immediately realizable and judicially enforceable, while economic, social and cultural (ESC) rights are not judicially enforceable. The Constitution in its Part III on "fundamental rights" incorporated CP rights. ESC rights are incorporated as "fundamental principles of state policy" (FPSP) in Part II of the Constitution.

However, the division into these two chapters is not fully identical with the two sets of human rights in the two covenants. With a few exceptions, the rights inserted in Part III were recognized by the ICCPR. Three provisions of the ICESCR have also been incorporated in that chapter of the Constitution. For example, article 29(1), which speaks for equality of opportunity in public employment, reflecting article 7(c) of the ICESCR, has been guaranteed as a fundamental right within the constitutional framework. On the other hand, the provision regarding participation of the people in the affairs of the Republic through their elected representatives, which has been inserted in the final half of article 11 of the Constitution as an FPSP, was recognized by the ICCPR in its article 25(a). The provision regarding people's right to self-determination recognized by both the ICCPR and ICESCR has been incorporated in the chapter on the FPSP in article 25(b) of the Constitution of Bangladesh.

5.3 An Analysis of the Provisions Regarding Human Rights in the Constitution of Bangladesh

The Constitution of Bangladesh contains provisions relating to human rights in three different parts including the preamble. The preamble asserts the pledge to secure fundamental human rights as an aim of the state. Specific human rights are listed in the Constitution either as fundamental rights or as FPSP. Human rights contained in the FPSP chapter (Part II) are not judicially enforceable, whereas the human rights contained in the chapter on fundamental rights (Part III) are judicially enforceable. As it has been mentioned earlier, according to the new article 7B of the Constitution all provisions of all of these three parts fall within the category of basic structures of the Constitution which are completely unamendable.

5.4 Provisions Regarding Human Rights in the Preamble: Constitutional Pledge

The preamble of the Constitution of Bangladesh makes a general pledge to establish a society where all fundamental human rights and freedom will be secured for all citizens. It declares:

We, the people of Bangladesh, ... 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.

It has been noted that '[f]ew constitutions do have such a Preamble '.[49] In *Dr. Mohiuddin Farooque v. Bangladesh ('Locus Standing Case*'), this distinctiveness of the preamble was explained in the following words that focused on the pledge made therein:

The Preamble of our Constitution stands on a different footing from that of other Constitutions by the very fact of the essence of its birth which is different from others. It is in our Constitution a real and positive declaration of pledges, adopted, enacted and given to

[49] *Constitution 8 Amendment Case*, (1989) 41 DLR (AD) 165, 197 (Chowdhuiy J).

themselves by the people not by way of presentation from skillful draftsmen, but as reflecting the echoes of their historic war of independence.[50]

The pledge made in the preamble has been further avowed as one of the FPSP in Article 11 of the Constitution. It declared a constitutional guarantee of fundamental human rights: "the Republic shall be a democracy in which fundamental human rights and freedoms ... shall be guaranteed'. Thus, the aim to secure human rights has not remained as a mere pledge in the preamble; it has been further imprinted in the Constitution in a way that imposes a duty on the state specifically to guarantee fundamental human rights.

This particular recital of the term 'fundamental human rights' in the preamble of the UDHR implies that the rights subsequently included in it are in fact those 'fundamental human rights'. The rights inserted in the UDHR have been further elaborated in the two covenants, ICCPR and ICESCR. Thus it appears that the rights incorporated in the three components of the International Bill of Rights are 'fundamental human rights'. It is submitted that in the absence of any clear constitutional definition of the term 'fundamental human rights', the meaning of this term as has been determined above in the light of international human rights law can be considered to be the meaning of the same term in the preamble of the Constitution of Bangladesh. The preamble of the Constitution thus contain the pledge to establish a society where the fundamental human rights, that is all of the rights contained in the International Bill of Rights, will be secured for all citizens of the state.

5.5 Fundamental Rights in Bangladesh

The fundamental rights of the people of Bangladesh have been guaranteed in Part III (Article 26-44) of the constitution of Bangladesh. All past laws inconsistent with these rights are made void by the Constitution, and it directs the State not to make any law inconsistent with these rights. Article 44 of the constitution guarantees the right of every citizen to move the High Court Division in accordance with clause (1) of Article 102 for the enforcement of any of the fundamental rights conferred by Part III of the Constitution. The jurisdiction of the High Court Division of the Supreme Court to enforce the fundamental rights is defined in Article 102 of Part Vl of the Constitution of 1972.

[50] Ibid [42].

5.5.1 Classification of Fundamental Rights

The Fundamental Rights enumerated in the Bangladesh Constitution may be classified in to following three groups:

A. Absolute Rights:

Some rights have been kept in an unfettered form in the sense that parliament cannot, except as provided in the Constitution, impose any restriction over them. They are following:

- Article 27: Equality before law.
- Article 28: Discrimination on grounds of religion etc.
- Article 29: Equity of opportunity in public employment.
- Article 30: Prohibition of foreign titles etc.
- Article 33: Safe guards as to arrest and detention.
- Article 34: Prohibition of forced labour.
- Article 35: Protection in respect of trial and punishment.
- Article 44: Enforcement of Fundamental Rights.

B. Rights on which reasonable restriction can be imposed:

They are following:

- Article 36: Freedom of movement.
- Article 37: Freedom of Assembly.
- Article 38: Freedom of Association.
- Article 39: Freedom of thought and conscience and of speech.
- Article 40: Freedom of religion.
- Article 43: Protection of home and correspondence.

The grounds for imposing restriction on these rights have been laid down by the respective sections—

- Article 36: in the public interest.
- Article 37: in the interest of public order or public health.

- Article 38: in the interest of public order or morality.
- Article 39: in the interest of the security of the state, friendly relation with foreign state, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.
- Article 41: in the interest of the public order and morality.
- Article 43: in the interest of the security of the state, public order, public morality or public health.

In the case of above mentioned fundamental rights parliament can by law impose only reasonable restriction as mentioned in the respective articles. The reasonability of the law can be examined by the Supreme Court and if the restriction seems to be unreasonable the court can declare the law illegal. It was held in *Chintainoni Rao v. State of Madhya Pradesh*[51].

C. Fundamental rights which has been practically left to the legislature:

There are some rights on which parliament can by law impose any restriction it pleases. They are following:

- Article 31: Right to protection of law.
- Article 32: Protection of right to life and personal liberty.
- Article 40: Freedom of profession or occupation.
- Article 42: Rights to property.

It has been detailed in the Constitution that the enjoyment of these rights shall be 'in accordance with law', 'except in accordance with law', 'subject to any restriction imposed by law', etc. Therefore the parliament can impose any restriction over these four rights. And the court cannot examine the reasonability of the restriction; it can see only the following two things:

i. if the law imposing restriction is a valid one;
ii. if the right has been infringed or abridged in accordance with the law.

[51] AIR 1951 SC 118.

5.6 Comparative Analysis of Human Rights among the Countries UK, USA, India and Bangladesh

To make a short comparative study of the Human Rights practiced in the four countries under discussion it is easy to say that though some differences are there in implementation policy of Human Rights but in the main the basic civil, political, economic, cultural rights of the citizens have been guaranteed by them. One of the main reasons of it can be found it the basis of the clue of this lies in the international treaties. As all these four countries are signatory to the major conventions, covenants and other international treaties so most part of them have been incorporated in the constitution of the country. It is true while some of them have prohibited death penalty but India is yet to implement it in its human rights mechanism.

The three generations of rights have majorly been ensured by these states. In India there is a national Commission for protection of Human Rights along with its state commissions. In regard to US, UK and India also there is Human Rights Commission. The issue of the environment and sustainable development are looked upon as a serious matter of collective right of the people of the world. The very concept of national rights is gradually developing to merge into international rights of the citizen of any country. The right to the stateless people or the refugee rights, right to seek asylum talk about the withering away of the national boundaries and speaks about the citizen of the world. Humanity is coming out of its prejudiced ideas of national boundaries. Thus, it can be summarized that when we talk about human rights then we about the rights of any human being from any part of the world. The UDHR, ICESCR, ICCPR, ICEDAW etc. all are international laws of human rights across the world. It does not have any national boundary. Since after the Second World War the concept of human rights have been given due importance both in national and international spheres.

The international commission on Human Rights acts upon any human rights violation across the world. And it must be admitted that the United Kingdom, United States of America, India and Bangladesh all of them are contributing a lot in working of the international agencies. But at the same time, it will have to mentioned also even in these enlightened days of human rights, number of states sponsored human rights are being reported to happen in these four nations. Civil society people are coming forward to protest and oppose these incidents and demanding the government of the concerned countries to take

proper steps to protect, promote and propagate human rights of the citizens of the country and a lot of Human Rights Organisations and NGOs are working in this field to save people's rights in various fields.

5.7 Distinction between Human Rights and Fundamental Rights

There are some Fundamental distinction between human rights and fundamental rights:

Firstly, all fundamental rights are human rights but all human rights are not fundamental rights. Fundamental rights are those of human rights which are placed in a written constitution. Human rights, therefore, are the whole of which fundamental rights are a part.

Secondly, the source of a fundamental right is the Constitution whereas the source of human rights is the international law.

Thirdly, fundamental rights have territorial limitations i.e. they have no application as fundamental rights outside the territory of a particular state. But human rights have no territorial limitations; they have universal application.

Fourthly, fundamental rights are protected by constitutional guarantees and can be enforced through the state courts. But there is no effective enforcement machinery for human rights.

Fifty, when certain human rights are written down in a Constitution, a supreme law, and protected by constitutional guarantees they are called fundamental rights. Directive principles, on the other hand, are polices relating to social, economic and cultural rights which are to be followed in governance of the country.

Sixth, fundamental rights are enforceable in a court of law and they create justiciable rights in favour of individuals. And the courts can enforce them against the government. Again, the courts are competent to declare as void any law that is inconsistent with any of the fundamental rights. The directives, on the other hand, are not enforceable in a court of law

and they do not create any justiciable rights in favour of individuals. The court cannot compel the government to carry out any of the directives. Again, the courts cannot declare any void, which is otherwise valid, on the ground that it contravenes any of directives principles.

Seventh, fundamental rights are mandatory in nature whereas directives are declaratory in nature as they have expressly been excluded from the preview of the courts.

Eighth, the fundamental rights create negative obligation on the state, i.e., the state is required to refrain from doing something. The directives, on the other hand, impose positive obligation on the state i.e., to implement these principles the state will have to achieve certain ends by its actions.

Ninth, the directive principles may be described as inchoate fundamental rights while the fundamental rights are full-fledged i.e. the former requires legislation to become effective while the latter need not requires such legislation. And so long there is no law carrying out the policy laid down in directives neither the state nor an individual can violate any existing law or legal right under the colour of directive principles.

Tenth, Fundamental rights are primarily aimed at assuring political freedom to citizens by protecting them against excessive state action while directive principles are aimed at securing social and economic freedom by appropriate state action.

Eleventh, fundamental rights are largely applicable to the citizens while human rights are universally applicable to all human being.

Chapter VI

IMPLEMENTATION, PRACTICE AND VIOLATION OF HUMAN RIGHTS

6.1 Implementation of International Human Rights Law

Human rights in international sphere can be implemented under different international instruments by different monitoring bodies. These bodies are often treated as the "gold standard" as they embrace what their far-more-common enforcement brothers - monitoring and reporting mechanisms - lack: the ability to impose sanctions on states that have violated their human rights obligations.

However, volume of rights provided in the international Human Rights instruments including Universal Declaration of Human Rights (UDHR) and two1966 international Covenants on political & civil Rights , and on economic, social and cultural rights e.g. ICCPR and ICESCR is more extensive than the rights guaranteed in part III of the constitution and other relevant laws of Bangladesh. Judiciary has opportunities to illuminate existing domestic human rights law by international human rights law to extend its scope and area of application.[52]

Table 1: Means and methods of human rights implementation

Means of implementation	Examples
Promotion	
1. Developing awareness	Circulation of publications, media coverage, Human rights education.
2. Standard-setting and inter-pretation	Adoption of declarations and conventions by UN Human Rights Council, regional bodies; general comments by treaty bodies, interpretation by tribunals.
3. Institution building	Judiciary and law enforcement, national

[52] M. Shah Alam, *Enforcement of International Human Rights law by domestic courts,* Nerw Warsi Book Corporation, Dhaka,2007, pp-118.

	commissions and ombudsman offices.
Protection	
4. Monitoring compliance with International standards	Reporting procedures, complaints procedures, fact-finding and investigation, Special procedures, universal periodic review (UPR).
5. Adjudication	Quasi-judicial procedures by treaty bodies, Judgments by international and regional tribunals.
6. Political supervision	Resolutions judging state policy and practice by international bodies; "naming and shaming" by Human Rights Council, UN General Assembly; demarches, public and private statements by states and senior officials.
7. Humanitarian action	Assistance to refugees and internally displaced persons in humanitarian emergencies; repatriation and resettlement.
8. Coercive action	UN Security Council sanctions, creation of criminal tribunals, and use of force under the doctrine of "Responsibility to Protect" people from genocide, war crimes, ethnic cleansing and crimes against humanity.

6.2 Practice of Human Rights

Without enforcement, universal human rights are just a concept. Human rights are traditionally studied in a global context through (1) the norm-creating processes, which result in global human rights standards and (2) the norm-enforcement processes, which seek to translate laudable goals into tangible practices. In addition, there are (3) continuing and new challenges to the effectiveness of this normative regime.

6.3 Violation of Human Rights

Human rights violations occur when any state or non-state actor breaches any of the terms of the UDHR or other international human rights or humanitarian law. In regard to human rights violations of United Nations laws. Article 39 of the United Nations Charter designates the UN Security Council (or an appointed authority) as the only tribunal that may determine UN human rights violations.[53]

The State is bound by law to protect every person's human rights. If it is unable to do so or if the State or its agents, (such as a policeman, bureaucrats, forest or armed forces officers) or any person who is acting on behalf of the State (like a contractor working under the contract of the State), does anything to reduce, disrespect, or interfere with another person's human rights, then it becomes a violation. Some examples of human rights violations can be:

- Negligence on the part of the pollution control board for prevention of release of poisonous chemicals by industries into water sources which provide water to the entire city. This is a violation of the right to life.
- Physical torture of suspects of crime or convicts by the police. This is a violation of the right to human dignity and physical security.
- Refusal of the police officer to register an FIR of a woman being harassed by a group of men in a train. This is a violation of the right to equal protection of law.
- Denial by the collectorate to act against upper caste people who are not allowing Dalits to worship at a temple or drink water from a well. This is a violation of the right against discrimination.
- Disparity in salary and promotion policy for male and female employees at the same workplace. This is violation of the right to equality of opportunity.
- Acquisition of the houses of several people, by the PWD for constructing a road or a flyover without giving compensation to the owner of the house. This is a violation of the right to livelihood.

[53] *"Chapter VII". www.un.org. 17 June 2015*. Retrieved 13 October 2020.

- Confiscation of a local press by the home ministry for publishing articles criticising the government in power. This is a violation of the right to freedom of expression.
- Refusal of the school administration to show the examination papers of the students. This is a violation of the right to information.
- Forceful conversion of the religion of a bride or a bridegroom in order to marry someone from a different religion. This is a violation of the right to religious freedom.
- Failure of the municipality to develop adequate measures for disposing garbage in the city. This is a violation of the right to a clean and healthy environment.

Chapter VII

FINDING, RECOMMENDATIONS AND CONCLUSION

7.1 Findings

Here are some facts finding according to this research. The findings are as follows:

- The value and substance of the various human rights and the courts role in maintaining, nourishing and preserving them against executive, legislative and even individual action.
- In attention may be occasions when these rights will be infringed by legislative or executive action.
- The citizens can by appropriate proceedings in the courts, thwart any possible attempt to infringe them.
- At the same time it can hardly be forgotten that it is the duty of the court to be last, not first to give them up.

7.2 Abuse of Human Rights

Human rights abuse and corruption undermine the values that form an essential foundation of stable, secure, and functioning societies; have devastating impacts on individuals; weaken democratic institutions; degrade the rule of law; perpetuate violent conflicts; facilitate the activities of dangerous persons; and undermine economic markets. The following are current statistics in five key areas of human rights abuse.

1. **Child abuse**: 40 million children below the age of 15 suffer from abuse and neglect.[54]
2. **Gang violence**: 100 percent of cities with populations greater than or equal to 250,000 reported gang activity.[55]

[54] United Nations Children's Fund, 2008.

[55] US Department of Justice.

3. **Child labor**: 246 million children, one in every six children aged 5 to 17, are involved in child labor.[56]
4. **Child soldiers**: UNICEF estimates that more than 300,000 children under 18 are currently being exploited in over thirty armed conflicts worldwide. While the majority of child soldiers are between the ages of 15 and 18, some are as young as 7 or 8 years of age.[57]
5. **Human trafficking**: It is estimated that there are 27 million people in the world today who are enslaved. Every year 600,000 to 800,000 persons are trafficked across international borders.[58]

7.3 Suggestions for Preventing Abuse of Human Rights

Here are six simple ways we can stand up to support and protect human rights in our daily life and begin to empower people around us and around the world. Every action, no matter how small, has the potential to make a difference.

1. **Speak up for what you care about:** Set aside time to finally give that cause that keeps nagging at your heart and reappearing in your life the attention it deserves. We all have something that we care deeply about, whether because of an experience we underwent, an encounter we've witnessed, or a story spoken by someone close to us. Advocacy has a huge impact in communities everywhere.
2. **Volunteer or donate to a global organization:** Oxfam International and UNICEF are two amazing nonprofits that support human rights around the world. With outreach programs in more than 90 countries, Oxfam helps empower communities to escape poverty and find resilience from natural disaster. We love how local change makers and activists work directly with Oxfam to fight systematic injustice and support human rights for all.
3. **Choose fair trade & ethically made gifts:** You can positively impact so many lives simply by how you shop for gifts this holiday and throughout the

[56] International Labour Organization, 2002.

[57] US Department of State, 2005.

[58] US Department of State Trafficking in Persons Report, 2006.

year. Fair trade and ethical products follow strict guidelines for giving workers and artisans living wages, safe working conditions, dignified employment, and environmental respect to support human rights.

4. **Listen to others' stories:** There's incredible power in listening to someone's story, especially one that is vastly different from yours. With 7 billion people on one shared planet, the world is full of diverse cultures, traditions, and ways of living that are interesting to learn about.
5. **Stay connected with social movements:** A wonderful way to feel connected to social movements in the U.S. and around the world is by engaging on social media like Instagram, Twitter and Facebook. Prominent activists and human rights organizations are happy to share the ways they are making a difference, and usually offer campaigns you can get involved with.
6. **Stand up against discrimination:** Discrimination has a way of creeping up in places we never imagined encountering it. Yet it's there, and the most important thing each of us can do is say something - don't let it slip by. And when you see someone else stand up, stand with them! When we have each other as support, we are more empowered against injustices in the workplace or in a classroom.

7.4 Recommendations on Human Rights Laws of These Countries

The following suggestions are placed for the consideration of the betterment for both of the Human Rights and Constitutional Laws in these countries:

1. Though these countries have considered the environment rights in their respective constitutional framework but the issue of climate change and the sustainable development should be taken more seriously.
2. Death penalty should be abolished totally.
3. To stop growing human rights violations the Human Rights Commission should be more active and work independently. In many cases these commissions are becoming the rubber stamp of the ruling political party of the country.

4. The compensation mechanism in case of human rights violations should be more than now.
5. The rapid development of the technology is causing the human rights violations in newer field like cybercrime, or the right to privacy are under serious threat. The human rights commissions should develop newer measures to combat these phenomena.
6. Right to speech that encompasses the right to criticism of the government too is considered as a sedition and the critic are put behind the bars arbitrarily. It's a new menace in all of these four countries. It has to be put to end ensuring the right to free speech along the freedom of the media having certain reasonable restrictions.
7. The issues like LGBT, statelessness, refugees, asylum seekers, euthanasia etc. are the serious ones. These should be taken into consideration seriously by the human rights protection agencies in these countries.
8. The problem of racial issues like Black and white in USA, the religious minorities in India are still facing discriminatory treatment which is very much unlikely in these days. The Human Rights Commission can resolve these problems if they can work properly.
9. In regard to the smooth functioning on the human rights issues the United Nations Human Rights commission should be more prompt and communicate with the human rights agencies of these countries and take required measure to fight against any sort of human rights violation.
10. Last but not the least, it is expected to combat the human rights violations and to ensure the human rights for each of the citizen of these countries they can organise seminars, symposia through bilateral talks among them. Through this way further improvement can be achieved in this regard.

7.5 Conclusions

The Constitution of Bangladesh created an extensive scope for the protection of human rights. The constitution makers accommodated different types of human rights within the constitutional framework with diversified apparatuses of protection. No doubt Bangladesh Constitution contains all the good principles of human rights, these are all fundamental to the

development of a human being, but unless the constitutional provisions are properly enforced and if the violators are not properly brought to book no relief will give to the common people of Bangladesh. Human rights have emerged to be one of the core fundamental rights since it gives positive rights to citizens of a state as individuals. Individual rights have to be attended as they provide concrete human rights.

The Human Rights and Constitutional Laws of the United Kingdom, United States of America, India and Bangladesh in many points converge into one. To talk about Human Rights the fact is that all of these four countries are signatory to so many international conventions and treaties like Universal Declaration of Human Rights in 1948, International Covenant on Civil and Political Rights, International Covenant on Social, Economic and Cultural Rights in the year 1966 along with its optional protocol gradually. Apart from these other so many treaties are there where these countries are the members. So quite naturally since the basic source of incorporating the Human Rights are the same so there are so many similarities in Human Rights Laws adopted in the constitutional framework of the countries. But it is also to be mentioned that some rights like death penalty, right to commit suicide etc. these nations differ from each other. Apart from that in regard to the rights of the sustainable development along with right to a fresh environment has been agreed by all of these countries. In spite of having some differences but grossly all these four nations of my research are heading towards ensuring the basic human rights to its citizens. Thus, they are setting the example of a civilized nation.

And in regard to Constitutional laws of these four countries while many similarities are there among each other and at the same time they differ in many points too. As for example while India follows strict sense of separation of powers among its different organs of executive, Parliament and judiciary where as in regard to UK and US does not follow it in strict sense of the term. Where Indian states enjoy some of the federal rights fully but in US and UK the provinces do not have that sort liberty. While US have a strong center India follows US in this respect. UK has the queen's or King's rule though parliament is the ultimate authority but in India there is no tradition of hereditary rule rather the chief of the executive too is elected by the representatives of the Member of the Parliaments and the Legislative assemblies. Generally Fundamental rights play vital role in all these four countries. These rights are universally applied to all citizens of these countries without any discrimination. They are enforceable by courts and legislature subject to certain restrictions.

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*****THE END*****