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Research Monograph

On

"Protection of Human Right in Bangladesh: An Analytical Study in Comparative Perspective"

Research Paper submitted in partial fulfillment of the requirements
of the degree of LL.B (4 years) under Sonargaon University

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To

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Dear Madam

It is a great pleasure to submit my research paper on "**Protection of Human Right in Bangladesh: An Analytical Study in Comparative Perspective",** I have given best efforts to finish the research paper with relevant information that I have collected from various sources. I have concentrated my efforts to achieve the objectives of the works and hope that my endeavor will serve the purpose. I shall be grateful and obliged if you kindly accept my thesis and evaluate it.

Sincerely yours,

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Acknowledgement

Firstly I offer millions of heartfelt thanks to Almighty ALLAH, who has given me strength to complete of this Research Monograph successfully.

I am very much grateful to my Research Supervisor **Sharmin Jahan Runa,** Assistant Professor Department of Law, Faculty of Arts and Humanities, Sonargaon University (SU), who has given proper guideline to complete this research paper. Eventually, I remember my parents as well as classmates and other senior students for their great assistance for this research I have always used the Library of Sonargaon University (SU) to complete my Report. So I express my heartfelt gratitude to Al librarians and assistant. So I am equally thankful to all of their authority and their staff.

Student's Declaration

It is my pleasure in presenting this Research Paper Based on my observation and experience during my research program on **"Protection of Human Right in Bangladesh: An Analytical Study in Comparative Perspective".** I worked under the supervision of **Sharmin Jahan Runa,** Department of Law. Faculty of Arts and Humanities, Sonargaon University (SU).

I hope that the report will reflect my learning during the program and all will find it quite interesting.

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Certificate of the thesis supervisor

This is to certify that the dissertation on '**Protection of Human Right in Bangladesh: An Analytical Study in Comparative Perspective**' is done by Shiuly Akter, ID- LLB 1803015033, in partial fulfillment of the requirements for the degree of LLB from Sonargaon University (SU). The research monograph has been carried out under my guidance and is a record of the bona-fide work carried out successfully.

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Abstract

The concept of human rights is not new but the implementation mechanisms of human rights at national, regional and international level remain quite newer than the concept. The paper examines the implementation mechanisms of international human rights regime on governments' human rights practices. The paper put forward an explanation that highlights a "paradox of empty promises" by the governments in implementing human rights. The core argument of the authors is that the universal institutionalization of human rights has created an international context in which governments often ratify human rights treaties as a matter of window dressing, thoroughly decoupling guiding principle from practice and at times exacerbating off-putting human rights practices, but the embryonic global legitimacy of human rights exerts independent universal civil society effects that perk up states' actual human rights practices.

Table of Contents

CHAPTER 1: Introduction **1-2**

1.1 Introduction

1.2. Rationality of the Study

1.3 Objectives of the Research:

1.4 Research Methodology

1.5 Sources and Materials

Chapter 2 :The Evaluation of Human Rights: An Overview in Historical Perspective **3-8**

2.1 Human Right: What Is It?

2.2 Types of Human Rights

2.4 Salient Features of Human Rights

2.5. Differences Between Human Rights and Fundamental Rights

2.5.1. Definitional Issues

2.5.2. Number of Human Rights and Fundamental Rights

2.6 Historical Perspective

2.6.1 Universality

2.7 Concept of Protection of Human Rights

2.8 Why is the concept of human rights important?

2.9 Why is protection of human rights essential?

2.10 Protection and Promotion

2.11 Enforcement

2.12 Implementation Mechanism: Meaning and Definition

CHAPTER 3 : PROTECTION OF HUMAN RIGHTS IN BANGLADESH **19-247**

3.1 Bangladesh constitution in protecting Human Rights

3.1.1 Protecting Constitutional Human Rights:

3.1.2 Scopes in Constitutional Provisions:

3.2 Scope of Supreme Court Approach:

3.4 Protecting Universal Human Rights:

3.5 Protection of Foreign Prisoner's Rights:

3.6 Right to Safe Environment is protected:

3.7 Protection of Public Health:

3.8 Protection of Marginalized People:

3.9 The Role of Judges in Protecting Human Rights:

3.10 What Laws Provide Protection of Human Rights in Bangladesh

3.11 Role of National Human Rights Commission in protecting Human Rights in Bangladesh

CHAPTER 4 : **Human Rights in Bangladesh Perspective** **25-30**

4.1 Laws dealing with Human Rights in Bangladesh

4.1.1 Bangladesh is an Important Democracy and U.S. Ally

4.1.2 Bangladesh's Zero-Sum Political Culture Hinders Governance And Encourages Faustian Bargains

4.2 Human Rights in Bangladesh Constitution

4.2.1 Human Rights in contemporary context of Bangladesh

4.3 Human rights in other Laws of Bangladesh

CHAPTER 5 : **Contravention of Human Rights in Bangladesh Perspectives** **31-32**

5.1 Violation of Human Rights in Bangladesh

5.1.1 Policy of Human Rights in Bangladesh

5.1.2 Policy's Practice in Bangladesh

5.2 Liability of government in violating Human rights in Bangladesh

Chapter 6 :Concluding Remarks **33**

6.1 Recommendations

6.2 Conclusion:

CHAPTER 1

Introduction

1.1 Introduction

Human rights are said to be the inherent, universal, inalienable and indivisible rights to which we all are equally entitled without any discrimination as to race, religion, nationality, color, gender, language, place of birth or any other status. These rights are also called the interrelated, interdependent and self-evident. As a human being, it is the duty of every person to know what the human rights are. What rights s/he belongs to? And how these rights can be enjoyed without any obstruction? At the same time it is the obligation of every governmental body to ensure the effective implementation of these rights so that no member of the human family becomes deprived of enjoying these and exposed to the consequences ensuing from the violation of any of these rights.

Bangladesh is a party to a number of major international human rights and humanitarian law treaties, albeit with important reservations to some of them. But the implementation of these human rights remains a far cry due to its ineffective implementation mechanism. This increasing gap between during the different tenure of governments of Bangladesh proclivity to join with the modern human rights regime and to bring their human rights practice into compliance with that regime challenges the effectiveness of international law and questions the legitimacy of its legal commitments to protect the lives of its citizens. Scholars of international relations, particularly within the realist and neoliberal traditions, expect this compliance gap between states' commitment to international law and states' practices. The main aim of this paper is to focus and analyze how far the implementation mechanisms of human rights in Bangladesh are sound. This paper intends to focus the significance of increasing the respect and observance of human rights and fundamental freedoms for Bangladesh and the overall development of human being.

1.2. Rationality of the Study

Rights are something people demands or desires for their self-Development. Rights are those basic standards without which people cannot live in dignity. Hobbhouse says, "Rights are what we may expect from others, and others from us and all genuine tights are conditions of social welfare".

Thomas Paine, a French first used the term 'Human Rights' While translating the French Declaration of Rights of Man and the Citizen from French to English, But unfortunately he was detained. Human Rights are those basic standards without which people cannot live in dignity. The basic rights and freedoms, to which all humans are entitled, often held to include the right to life and liberty, freedom of thought and expression, and equality before the law. To violate someone's human right is to treat that person as though she or he were not a human being. These are basically few natural rights which cannot be denied, but at the same time not guaranteed by Statutory Law. It is the obligation of the state to promote and protect human rights[1].

The New Lexicon Webster's Dictionary of the English language describes the "Human Rights" expression as under, "The right to be free from Governmental violations of the integrity of the persons". "Human Rights means Right to life, Right to liberty, Right to equality and Right to dignity of a person guaranteed by the constitution of the People's Republic of Bangladesh and such other Human Rights documents and ratified by the People's Republic of Bangladesh and enforceable by the existing laws of the Bangladesh" (National Human Rights Commission Act, 2009 Section-2(f).

1.3 Objectives of the Research:

The objectives of my research work are as follows:

1. An overview of The Evaluation of Human Rights: An Overview in Historical Perspective
2. To Analyze the protection of Human rights in Bangladesh.
3. To determine the limitations of the Judiciary of Bangladesh to protect human rights.

[1] Rahaman, Khan Ferdousor. (2008). Unbundling Human Rights, First Edition, Published by Academic Press & Publisher Library, Prantik, Dhanmondi, Dhaka,1209.

1.4 Research Methodology

To collect information for preparing this report, I make a systematic procedure. All the data are collected to make an overall comprehensive view of management activities with practical perspective. The report is based on secondary data. Secondary data means outside data which was collected from website, journal, book reference etc. The information was collected from various online resources, different journals and articles.

1.5 Sources and Materials

This study 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.

Chapter 2

The Evaluation of Human Rights: An Overview in Historical Perspective2.1

2.1 Human Right: What Is It?

The simple meaning of the term 'right' concerns that which a person has just claim to, or that which belongs to a person by law, privilege, tradition or nature. When we talk of human rights, we are talking of a concept that draws substantially from what we traditionally refer to as the natural rights. Human rights thus came to be evolved as those of the natural rights which are basic to the very existence and growth of a human being and which every civilized society would like to ensure into them, albeit its own larger interest (Sinha, 2014, p.1). The true pioneer of human rights was the idea of natural rights which appeared as part of the medieval natural law tradition that became renowned during the enlightenment with the philosophers (e.g., Locke, Hutcheson and Burlamaqui) which featured considerably in the political discourse of the American and French **Revolution. Thomas Paine for the first time used the term 'human rights'** in the English translation of the French Declaration of Rights of Men and of the Citizen, that was adopted by the National Assembly of France in 1789 (Mondol and Mondol, 2006, p.29). The idea of human right is the heart of international law that represents the fundamental values common to all cultures, and must be respected by all **countries throughout the world. The term 'human rights' refers to a wide** range of inherent and inalienable rights, which all individuals have, irrespective of their race, color, sex, language, political or other opinion, birth or other status (Khair, 1997, p.69). According to the Encyclopedia Britannica, human rights are the rights that belong to an individual or group of individuals simply for being human, or as a consequence of inherent human vulnerability, or because they are requisite to the possibility of a just society (Weston, 2014, p.26).[2]

[2] Scott McLemee, "The Last Utopia" *Inside Higher Education* Dec. 8, 2010 online.

2.2 Types of Human Rights

Human Rights are the integrated, broad and covered a wide range of rights. On the basis of Universal Declaration of Human Rights, 1948 there are following classification;

A. Civil rights & Political rights; Known as Fundamental rights, Guaranteed by Article (27-44) part (III) of Bangladesh Constitution.

B. Economic rights & Social and Cultural rights; Bangladesh constitution, part (II) Article (8-25) not guaranteed.

C. Solidarity rights, that is I) right to development II) right to self determination.

The total numbers of Human Rights are 27; from which 25 is described by the Universal Declaration of Human Rights, 1948 and rest two are described by the Declaration on the Granting of Independence to Colonial Countries and Peoples (DGICCP) and Declaration on the Right to Development (DRD)[3].

2.4 Salient Features of Human Rights

The evident characteristics of Human Rights make them different from other rights. The unique features are as follows I. Inherent: The most outstanding characteristics of Human Rights are that it is inherent and natural. None acquires it by any special quality of reputation. It is not the charity of any person or any social system. Every man is by born entitled to these rights.

II. Not Exchangeable: Human Rights cannot be handed over, exchanged or transferred. It is excessive to all. It could neither be given away, nor could be stolen or taken away by snatching.

III. Universality: Universality stands out as the basic value of human rights. Everyone is entitled to all the rights and freedoms set forth in this Declaration.

IV. Equality: Human Rights refer to equal enjoyment of opportunities and resources to all. Justice, rule of law and indiscrimination are the philosophy of Human Rights.

[3] Rokeya, Begum. (1997). *Human Rights- An Overview in Historical Perspective*, Sociological Journal, J.S.D. Volume - 12 No 1, Dhaka.

V. Feasibility: The important characteristics of Human Rights are its feasibility or effectiveness. That is Human Rights should never be viewed as a hypothetical or abstract concept. It is shaped by the social values, norms, culture and institutions3.

2.5. Differences Between Human Rights and Fundamental Rights

2.5.1. Definitional Issues

Human Rights: Human Rights are those basic standards without which people cannot live in dignity. Human Rights are inherent to each individual. Fundamental Rights: Fundamental Rights are those rights or Human Rights which are guaranteed by the constitution. All Fundamental Rights are Human Rights but all Human Rights are not fundamental rights. Human Rights are concerned with the all human being of the world but fundamental rights are related between one state and their citizens.

2.5.2. Number of Human Rights and Fundamental Rights

According to Universal Declaration of Human Rights, 1948 the number of Human Rights are 25 (Civil and Political Rights-19 and Economic, Social and Cultural Rights-06). There are also another two kinds of Human Rights Known as Solidarity rights. According to DGICCP, one right is to Self-determination and according to DRD another right is to Self-development. So the total numbers of Human Rights are 27.

On the other hand, there are no constant numbers of fundamental rights. It varies from country to country. It depends on Political and economic condition of any state. The numbers of Fundamental rights in Bangladesh are 18.

2.6 Historical Perspective

The concept of Human Rights is as old as the ancient doctrine of natural right. It is ultimately created after the creation of human being. Thus Human Rights are developed day by day by the various declaration and treaty. On the other side, the fundamental rights are derived from the Human Rights and recognized by the states own constitution. State organization is precondition for ensuring the fundamental rights but not essential for Human Rights.

2.6.1 Universality

Human Rights are the same for all human beings regardless of race, sex, and religion or political or national origin. Human Rights are Universal. But fundamental rights are applicable only for the own population of any state. In Bangladesh, 12 rights are applicable only for Bangladeshi citizens and rest six are applicable or all either citizens or foreigner stay in Bangladesh.

2.7 Concept of Protection of Human Rights

THE PROTECTION OF HUMAN RIGHTS ACT, 1993 ACT NO. 10 OF 1994 [8th January, 1994.] An Act to provide for the constitution of a National Human Rights Commission, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights and for matters connected therewith or incidental thereto.

2.8 Why is the concept of human rights important?

Human rights are needed to protect and preserve every individual's humanity, to ensure that every individual can live a life of dignity and a life that is worthy of a human being.

2.9 Why is protection of human rights essential?

Human rights are an important part of how people interact with others at all levels in society - in the family, the community, schools, the workplace, in politics and in international relations. It is vital therefore that people everywhere should strive to understand what human rights are.

2.10 Protection and Promotion

Human Rights are protected and Promoted by International Law but fundamental rights are protected promoted by the States Constitution.

2.11 Enforcement

Though Human Rights are internationally recognized, it is enforced by the United Nations, International laws and other specialized organization. But fundamental rights are enforced by the

local Judiciary. There are no remedies against the violation of Human Rights but the violation of fundamental rights will be punished by the local judiciary.[4]

2.12 Implementation Mechanism: Meaning and Definition

Through implementation mechanism is meant any short of obligation, procedure, or process recognized or established by a treaty that is designed to motivate or to promote compliance, whether such motivations are in the form of avoiding shame or other, more concrete results. Saunders opines that by "enforcement mechanisms," I mean any type of obligation, procedure, or process established by a treaty that is designed to promote or incentivize compliance, whether such incentives are in the form of avoiding shame or other, more tangible consequences (Saunders, 2012, p. 12). Implementation entails a group of activities, which include primarily activities to improve compliance by the states themselves, e.g., enacting national laws or administrative practices to comply with human rights standards, strengthening the judiciary, establishing national human rights institutions, improving minimum health standards, and participating in the governance. Before the birth of UN there were no specific international provisions with regard to the protection and promotion of human rights though there were only national and regional instruments for their protection (Faiz-ud-din, 2011, p.7). Since 1948, the UN has created numerous treaties, covenants, principles, declarations, protocols and different mechanisms concerning the protection and promotion of human rights to monitor the respect and observance of states towards their international obligations. Implementation of the rights is the obligation and sovereign right of each state itself (Henderson, 2005, p.8).

[4] Moyn, Samuel. (2010). *The Last Utopia: Human Rights in History*, Harvard University Press.

CHAPTER 3

PROTECTION OF HUMAN RIGHTS IN BANGLADESH

3.1 Bangladesh constitution in protecting Human Rights

Introduction: There is a common opinion that an independent judiciary is the strongest guarantee to upholding the rule of law and the protection of human rights[5]. The necessity of strengthening justice was considered a priority when drawing up the United Nation Charter in 1945, which at that time determined: "to establish conditions under which justice and respect for obligations arising from treaties and sources of international law can be maintained" [6]. International human rights instruments corroborated this by requiring that everyone should be given a fair trail by an independent and impartial tribunal[7], thus obliging the respective signatory states to implement this and other standards inherent in those conventions into their domestic legislation[8]. Full implementation of such human rights law into domestic legislation guarantees that judiciary organs are independent in performing their functions. The United Nations has addressed this issue more specifically by adopting its Basic Principles on the Independence of the Judiciary[9]. The principles in question impose an obligation on the States concerned to secure and promote the independence of the judiciary within their jurisdiction by incorporating the necessary safeguards into domestic legislation and bringing this to the attention of the judicial organs, and to members of both legislative and executive organs. In addition, no inappropriate interference, no improper influence, pressure or threat to the judiciary should be allowed[10].

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[5] Daniel C. Prefontaine, Q.C.& Joanne Lee the World Conference on The Universal Declaration on Human Rights, Montreal, December 7, 8, 9, 1998.

[6] The Preamble of the UN Charter.

[7] International Covenant on Civil and Political Rights (ICCPR) (Article 14 (1)), European Convention on Human Rights (ECHR) (Article 6 (1)), American Convention on Human Rights (ACHR) (Article 8 (1)), African Charter on Human Rights (ACHR) (Article 7 (d)).

[8] Any State who has signed these human rights conventions is obliged to keep to their rules. However, next to them, the basic rights enshrined in the Universal Declaration of Human Rights (1948) have become accepted norms of customary international law and as such have an imperative character.

[9] The Basic Principles on the Independence of the Judiciary adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Milan from 26 August to 6 September 1985 and endorsed by General Assembly Resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985.

[10] The Preamble of the UDHR, para.1, 2, 3, 4.

3.1.1 Protecting Constitutional Human Rights:

The Constitution is a supreme law of the country and the Supreme Court of Bangladesh is the guardian of the Constitution. The human rights which are granted by the constitution are enforceable by the Supreme Court in following ways:

3.1.2 Scopes in Constitutional Provisions:

The Bangladesh Constitution has provided the Supreme Court with sufficient authority to protect human rights. The Constitution is the ultimate guarantee for its involvement in human rights issues. This authority can be meaningful if the Supreme Court can apply it in different human rights situations. Some of those situations have been described above. It is true that the Constitution of Bangladesh is modern with adequate guidelines for human rights protection. It incorporates all the important rights from the Universal Declaration of Human Rights (UDHR) in Part II[11] and Part III[12]. Moreover, the rights that are declared under Fundamental Rights are judicially enforceable. The Constitution provides that, "the right to move the (High Court Division) in accordance with [clause (1)] of Article 102, for the enforcement of the rights conferred by this Part [Fundamental Rights] is guaranteed."[13]

The ***writ***[14] jurisdiction of the Supreme Court provides the ultimate scope for it to guarantee the human rights provisions for all citizens. The Constitution provides the writ jurisdiction to the ***'person aggrieved'***[15]. Pursuant to Article 102 it is possible to enforce the fundamental rights of the aggrieved person. The Constitution provides the Supreme Court with review[16] jurisdiction. This is a provision that virtually enables the Supreme Court to act against the decisions of the lower courts that are not, in comparison with the Supreme Court, independent and are influenced by the executive. This may occur in relation to issues where the lower courts are not functioning

[11] Fundamental Principle of State Policy, (Article- 8 to 25).
[12] Fundamental Rights (Article- 26 to 47).
[13] Article 44 (1) of The Constitution Of Peoples Republic Of Bangladesh.
[14] Article 102 of The Constitution Of Peoples Republic Of Bangladesh.
[15] In ***Zamindar Ahmed vs. Government of Bangladesh***, 34 DLR, 1977; ***Justice Amir-ul Islam*** extended the notion of 'aggrieved person' and said that: "There is no hard and fast meaning that could be ascribed to the term 'aggrieved person'. The meaning of the term 'aggrieved person' is to be determined with reference to the facts and circumstances of each case."
[16] Article 105 of The Constitution Of Peoples Republic Of Bangladesh.

proper and therefore it has created public dissatisfaction and mistrust. ***MD. Abdul Ghone***[17] told in his interview;

"This is the provision that shows how Supreme Court can protect those human rights that are not brought before it directly".

3.2 Scope of Supreme Court Approach:

The Bangladesh Supreme Court applies different types of approaches in dealing with different types of human rights violations by using its potential to address different areas of human rights violations. This variation in approach is a great potential that can support the Supreme Court as a protector of human rights. It is true that all human rights violations cannot receive similar treatment by the Supreme Court. It can be discerned that the Supreme Court has developed a tradition to protect human rights by using different approaches. **Firstly,** the practice of *PIL* is one approach that is encouraging the Supreme Court to become pro-active. It is one way that the court can provide remedies for victims. This *PIL* approach is basically applied where a human rights violation has been inflicted on a wide range of people. In this regard, remedies are claimed by a representative of the people. **Secondly,** the general approach of the Supreme Court to protect human rights is by deciding on regular suits. ***MD. Monowar Hossain***,[18] is of the view that "the court protects human rights mostly in regular *suits, appeal or writ*. The individuals usually proceed with their issue, however, this is time consuming and the court shows little action in this regard." **Thirdly,** the notion of *suo muto* bears evidence of action by the Supreme Court. *Suo muto* is helpful in bringing remedies to the door of the victim. This is usually a situation that is immediate in nature. **Fourthly,** the Supreme Court is *pro-active* where human rights issues are of great serious nature and has wide concern. Often this type of case involves human rights issues that are more expressive than others. The court is selective in accepting this kind of case, but if it comes under consideration of the Supreme Court it takes less time and receives a more active involvement of the Supreme Court. This involvement includes flexible interpretation of laws, such as extension of the concept of *locus standi*. This approach is helpful in understanding the wide capacity of the Supreme Court to deal with human rights issues. This

[17] Advocate, Supreme Court of Bangladesh and Additional Public Prosecutor, Dhaka Metro Session Judge & Special Tribunal Courts, Dhaka. (Interviewed on 27 July 2010).
[18] Advocate Supreme Court and Assistant Attorney General, Bangladesh. (Interviewed on 27 July 2010).

is obviously an area of potential where the Supreme Court can act in order to protect human rights.

3.4 Protecting Universal Human Rights:

The judiciary of Bangladesh, particularly its superior tier, comprising the Supreme Court, has been seen as the most responsible organ of the State to ensure rule of law and justice. There is also a growing expectation that the judiciary, in administering justice, should not confine itself to municipal laws only, but should examine competent issues in the light of universal norms and principles of human rights and freedoms. This expectation has been advanced by the pronouncement of the Appellate Division of the Supreme Court that, "*national Courts should not straightway ignore the international obligations, which a country undertakes. If the domestic laws are not clear enough or there is nothing therein, the national courts should draw upon the principles incorporated in the international instruments*[19]."

Our Constitutional granted rights which are also declared by UDHR allows granted by the Supreme Court of Bangladesh and also the following universal human rights are protected by our judiciary:

3.5 Protection of Foreign Prisoner's Rights:

No person shall be accused, arrested, or imprisoned except in the cases and according to the forms prescribed by law. Any one soliciting, transmitting, executing, or causing to be executed, any arbitrary order shall be punished. But any citizen summoned or arrested in virtue of the law shall submit without delay, as resistance constitutes an offense.[20] The law shall provide for such punishments only as are strictly and obviously necessary, and no one shall suffer punishment except it be legally inflicted in virtue of a law passed and promulgated before the commission of the offense.[21]

The Bangladesh Supreme Court acts proactively to protect the rights of foreign prisoner's. It acknowledges this in the form of simple application. The Supreme Court is active enough to guide the authorities to implement its decision even though it has suffered from little cooperation from the executive authority. In 2001, the High Court Division gave specific directions and made

[19] Per Bimalendu Bikash Roy Chowdhury, J., 21 BLD (AD) (2001) 69.
[20] Article 7; Declaration of the Rights of Man ,1789
[21] Article 8; Declaration of the Rights of Man ,1789

far-reaching observations in a case brought within its epistolary jurisdiction. This case ***Dr. Faustina Pereira v The State***[22] was based on a letter written to the Chief Justice which brought his attention to the plight of foreign prisoners in the Dhaka Central Jail whom languish therein despite having served out their sentences long ago.

The Court, having expressed its discontent with the concerned Government departments and directed a constructive duty upon the Government, the Court also made certain recommendations, such as the setting up of separate cells in the Ministry of Foreign Affairs and the Office of the Inspector General of Prisons (IGP) to facilitate the timely release and repatriation of the prisoners. The IGP was also directed to furnish full particulars of the remainder prisoners across the country and to take steps for their release and rehabilitation. This is a good example where the honest expression of the Supreme Court in protecting the rights of foreign prisoners can be found.

3.6 Right to Safe Environment is protected:

The United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro from 3 to 14 June 1992 recognized the entitlement of human beings to a healthy and productive life in harmony with nature[23]. The threshold of the Rio Declaration was the recognition of right to development[24] and more importantly sustainable development. With the adoption of Rio, the global community committed to integrate environmental issues into mainstream economic and social policy[25] and reduce and eliminate unsustainable patters of production and consumption[26].

The Supreme Court of Bangladesh has started its activism with regards to environmental issues and it acts proactively in protecting the rights to safe environment by providing broad interpretation of legal provisions and rights. There is hardly any example of environmental claim where the Supreme Court does not provide a relatively flexible interpretation of laws to address the facts. So, it is obviously a good sign. This shows that the Supreme Court of Bangladesh is moving forward to expand its limitations for the application of wide human rights norms and order to protect the right to safe environment. There are certain an example, where the Supreme

[22] 53 DLR (2001) 414 and 21 BLD (HCD) (2001) 499.
[23] Principle 1 of the Rio Declaration on Environment and Development
[24] ibid, Principle 3
[25] ibid, Principle 4
[26] ibid, Principle 8

Court has extended the rights declared in the Constitution and has encompassed certain provisions of the international human rights laws. In ***Dr. Mohiuddin Farooque v Bangladesh and Others***[27]***;*** Dr. Farooque's submission was that, although the right to a safe and healthy environment has not been directly specified in the Constitution as a fundamental right, such a right is inherent and integrated in the 'right to life' as enshrined in Article 32 of the Constitution (no person shall be deprived of life). Hence, the right to safe environment is also a fundamental right under Article 32, being supported by Article 31 that ensures that no action detrimental to life, body or property could be taken. After hearing these submissions the court accepted the arguments and took action.

3.7 Protection of Public Health:

Every country in the world is now party to at least one human rights treaty that addresses health-related rights. This includes the right to health as well as other rights that relate to conditions necessary for health.[28]

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.[29] Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.[30]

After hearing the matter the High Court Division issued show cause notice on the Ministry, BSTI, and the Institute of Public Health for their failure to take appropriate action against the Pepsi Cola manufacturer. The Court also asked the Bangladesh Beverage Industries Ltd to show causes, that why its license to manufacture Pepsi Cola should not be cancelled. This shows the level of Supreme Court action in issues concerning public health. The court gives serious attention to public health issues and it cooperates with different social groups in order to support this issue.

[27] 48 DLR, 1996, p. 438
[28] http://www.who.int/hhr/en/; Last visited 6/8/2010 at 8:26pm
[29] Article 25 (1); The Universal Declaration of Human Rights
[30] Article 25 (2); The Universal Declaration of Human Rights

3.8 Protection of Marginalized People:

"The Supreme Court is a trusted organ for the mass people of the country, but it is impossible for the Supreme Court to address all human rights violation issues in the country. It is in exceptional circumstances that the Supreme Court acts as a victim sensitive organ. In certain cases the Supreme Court bring the cases which the aggrieved party could not possibly bring, and issue *suo motu* rule for their protection. That is clearly a victim sensitive role, however it is not enough and it depends on many associated factors." Moreover, the economical and the social position of victims require more support from social groups to bring their issues to court. From the above argument it can be identified that the Supreme Court of Bangladesh is performing a victim sensitive role. However this is still insufficient compared to the urgency and the range of human rights violations in the country.

3.9 The Role of Judges in Protecting Human Rights:

The concept of judicial independence requires that judges be free from any interference in the exercise of their judicial powers. Each judge must be independent from external influences that may seek to reduce his or her objectivity and impartiality. This requires independence both from the other branches of government, and from any other influences that may affect the capacity of a judge to decide a case strictly on the basis of its legal merits. It also requires independence from other judges involved in decision making, although the systems of appellate and judicial review necessarily impinge on a judge's independence of action. An impartial assessment of the facts and objective application of the law are essential for legal independence.

3.10 What Laws Provide Protection of Human Rights in Bangladesh

Protecting Human Rights

Protecting human rights is closely linked to advancing long-term, sustainable development. Rights are both part of the goal of development and instrumental to attaining other goals such as economic growth or democracy.

The links between rights and development are many and complex:

- **Lack of rights leads to exclusion** and marginalization of citizens, which lies at the root of much poverty, even in resource-rich environments.
- **Lack of rights exacerbates conflict** and leads to cycles of violence.
- **Having rights means that people participate** in making choices about their own lives, unleashing their own creative energies and strengthening social unity.
- **Living within a rights-protecting culture** allows people to develop to the maximum of their capabilities.

Bangladesh human-rights programming is based on the following:

Protection of rights - actions or programming aimed at preventing or avoiding rights violations by the state, such as:

- **Protection of human rights defenders.**
- Increasing the capacity of vulnerable populations (including victims of torture or war trauma, people with disabilities, indigenous or tribal peoples, LGBT individuals, labor activists, detainees, women and children) to defend their rights and advocate for themselves.
- Atrocity prevention, aimed at preventing attacks on vulnerable or marginalized populations.
- Efforts to stop human trafficking and protect its victims.

Promotion of rights - actions or programming aimed at advancing rights, empowering communities and rights advocates, and advancing awareness, including:

- Legislation and regulations aimed at preserving human rights in national law.
- Human-rights education and awareness, especially among particularly vulnerable or marginalized populations.
- Transitional justice or support for the different ways in which societies come to terms with a legacy of past human-rights violations and/or war crimes.

Principles - a way of working and thinking that imbues all our development work—a cross-cutting issue with applicability to everything we do:

- Individuals have rights; our goal is to help them realize those rights.
- Governments have duties; our goal is to help them carry out those duties.
- "Do no harm"; our programming should not inadvertently lead to rights violations, including forced displacement or systematic discrimination of people.

Protecting human rights strengthens resiliency by helping states and communities address underlying grievances that cause instability and conflict.

3.11 Role of National Human Rights Commission in protecting Human Rights in Bangladesh

Within its first year of operation, the NHRC filed over 250 cases of human rights violations and worked with relevant authorities to address the problems. Photo: UNDP Bangladesh

The National Human Rights Commission of Bangladesh (NHRC) is an independent statutory body formed under the National Human Rights Commission Act 2009. The NHRC serves as the major national human rights watchdog, monitoring implementation of state obligations to respect protection and the fulfillment of the rights of every citizen of society.

The National Human Rights Commission Capacity Development project is a step towards building the institutional strength of the commission, and establishing it as an effective, efficient and credible organization capable of fulfilling its mandate.

The project is implemented in partnership with the NHRC, and focuses on achieving the following 4 key outcomes.

- Institutional development of the NHRC;
- Human rights monitoring and investigation;
- Human rights awareness and education;
- Human rights research and policy development.

What have we accomplished so far?

- The NHRC drafted its second five years strategic plan (2016-2020)

- The NHRC conducted surveys to assess peoples' peception of the human rights situation in Bangladesh.
- The NHRC conducted a series of research to assess the compliance of national laws with core international human rights instruments.
- The NHRC provided recommendations on specific legislation to relevant ministries to ensure that the current laws in Bangladesh are consistent with the international human rights standards and best practices
- The NHRC submitted its first stakeholder Universal Periodic Review report to the Human Rights Council in 2012 following national consultations on key human rights issues.
- The NHRC conducted campaigns to raise awareness about human rights at the grassroots level and conducted human rights training for key stakeholders such as human rights defenders, journalists, and law enforcement officials.
- The NHRC has developed an online complaints management system and procedures on complaints handling.
- The NHRC visited prisons, schools, hospitals and made recommendations to the government to address human rights violations.
- The NHRC is now known in the wider international community, with connections established with the International Coordinating Committee for NHRIs and regional bodies such as the Asia Pacific Forum.

CHAPTER 4

Human Rights in Bangladesh Perspective

4.1 Laws dealing with Human Rights in Bangladesh

US Peace Briefing analyzes the coexistence of Islam and democracy in Bangladesh.

Bangladesh has long been heralded as a moderate Muslim country that has encompassed diversity in belief and praxis of Islam. It has also made laudable strides in improving the availability of health services, expanding educational opportunities for its 144 million citizens, and has done much to empower women. Bangladesh, along with Turkey, exemplifies the coexistence of Islam and democracy.

Unfortunately, Bangladesh has entered a difficult phase. Since 1999, Islamist militants have unleashed a campaign of terror that has gone virtually unchecked. They have attacked opposition party members, authors, cultural assemblies, religious minorities, and even Muslims who prefer Bangladesh's traditional Sufi variants of Islam. Many fear that the alliance of the ruling Bangladesh National Party (BNP) with two hard-line Islamist political parties has encouraged the spread of violence. Meanwhile, the government is in a state of paralysis, as both the ruling and opposition parties struggle for power at all cost.

Alarmist headlines have declared Bangladesh a "Cocoon of Terror" and the site of the next "Islamist Revolution." How significant are these events and what risks do they really pose to human rights and rule of law in this important—if flawed—democracy? The U.S. Institute of Peace convened an expert panel to consider these issues and examine their significance. The panel included former American and Bangladeshi diplomats as well as current and former representatives of the U.S. Department of State. This Peace Briefing, prepared by Kerem Levitas and Christine Fair of the Institute of Peace, provides a summary of the issues, challenges, and policy options discussed at the meeting.[31]

[31] *Bangladesh National Women Lawyers v. Bangladesh,* Writ Petition No. 5916 of 2008.

4.1.1 Bangladesh is an Important Democracy and U.S. Ally

All panelists agreed that Bangladesh is an important U.S. ally. With its 144 million inhabitants, Bangladesh is one of the most populous Muslim countries in the world. It won its independence from Pakistan in 1971 through an armed struggle that was based upon Bengali nationalism and an ethos that amalgamated religious tolerance and strands of socialism. While Bangladesh has had its experiences with military leadership, since 1991 it has held three mostly free and fair elections and boasts an involved electorate

4.1.2 Bangladesh's Zero-Sum Political Culture Hinders Governance And Encourages Faustian Bargains

Bangladesh's political system is dominated by two heritage parties, the ruling BNP and the opposition Awami League (AL). Panelists acknowledged with concern that both are bitter rivals and are obsessed with undercutting each other—at the expense of Bangladesh's governance. Unlike India or other robust democracies, the opposition in Bangladesh has very little role to play in governance. This fact compels opposition parties to engage in practices that are inconsistent with democratic principles and practices, such as calling economically debilitating national strikes, violent street politics, and any other means to destabilize the government. This culture of zero-sum politics has resulted in a parliament that operates fitfully at best and has encouraged dangerous alliances.

4.2 Human Rights in Bangladesh Constitution

The constitution of Bangladesh provides basic and fundamental rights for all human beings. It also ensure the full freedoms and particular space for all human being. Such as-

- Article 27 ensure equality before law without any discrimination
- Article 28 provide all rights without discriminating as race, sex, culture, religion etc.
- Part 3 discuss about the fundamental rights and freedom for all human being such as freedom of movement, freedom of association, freedom of assembly, freedom of property, freedom of religion, free choice of employment and basic fundamental needs.

The constitution also provide some law which used by armed force to violate human rights.

- Special power act(SPA) 1974 which provide chance to detained without any cause.
- Section 54 of criminal code ensures arrest any civilian without any warred.
- Emergency provisions 142-b can stop fundamental freedoms of people like freedom of movement ,freedom of association, freedom of press, freedom of property etc.

4.2.1 Human Rights in contemporary context of Bangladesh

Bangladesh held free and fair parliamentary elections with isolated irregularities and sporadic violence. The elections and subsequent peaceful transfer of power ended two years of rule by a military-backed caretaker government. In Bhutan, elections for the lower house of parliament completed the country's transition to a constitutional and limited monarchy with genuine popular oversight and participation.[32]

In Bangladesh, levels of violence declined significantly and the caretaker government oversaw successful elections, but the government's human rights record remained a matter of serious concern. The state of emergency, which the government imposed in January 2007 and lifted on December 17, curtailed many fundamental rights, including freedom of expression, freedom of association, and the right to post bail. The government's anticorruption drive was greeted by popular support but gave rise to concerns about fairness and equality under the law. Although the number of extrajudicial killings decreased, security forces committed serious abuses, including extrajudicial killings, custodial deaths, arbitrary arrest and detention, and harassment of journalists. Some members of security forces acted with impunity and committed acts of torture, and the government failed to investigate fully extrajudicial killings.

4.3 Human rights in other Laws of Bangladesh

Basic Requirements for Human Rights: Any society that is to protect human rights must have the following characteristics:

i) A *de jure* or free state in which the right to self-determination and rule of law exist.

ii) A legal system for the protection of human rights.

[32] . M.Shah Alam 'Enforcement of International Human Rights Law by domestic court,p.94

iii) Effective organized (existing within the framework of the state) or unorganized guarantees. [33]

Categories of Human Rights: Human rights have been divided into three categories:

i) First generation rights which include civil and political rights.

ii) Second generation rights such as economic, social and cultural rights.

iii) Third generation rights such as the right of self-determination and the right to participate in the benefits from mankind's common heritage.[34]

Human rights may be either positive or negative. An example of the former is the right to a fair trial and an example of the latter is the right not to be tortured.[35]

First generation rights: uphold the sanctity of the individual before the law and guarantee his or her ability to participate freely in civil, economic, and political society. Civil rights include such rights as the right to life, liberty, and personal security; the right to equality before the law; the right of protection from arbitrary arrest; the right to the due process of law; the right to a fair trial; and the right to religious freedom and worship. When protected, civil rights guarantee one's 'personhood' and freedom from state sanctioned interference or violence. Political rights include such rights as the right to speech and expression; the rights to assembly and association; and the right to vote and political participation. Political rights thus guarantee individual rights to involvement in public affairs and the affairs of state. In many ways, both historically and theoretically, civil and political rights have been considered *fundamental* human rights for which all nation states have a duty and responsibility to uphold.[36] They have also been seen as so-called 'negative' rights since they merely require the absence of their violation in order to be upheld.

Second generation rights: The second generation rights are related to equality, including economic, social and cultural rights.They includes such rights as the right to a family; the right to education; the right to health and well being; the right to work and fair remuneration; the right to form trade unions and free associations; the right to leisure time; and the right to social security. When protected, these rights help promote individual flourishing, social and economic

[33] K. Vasak, *The International Dimensions of Human Rights Volume I* (P. Alston ed., Connecticut: Greenwood Press, 1982) at 4-8.
[34] P. L. Mehta and S. S. Jaswal, "Human Rights: Concept and Ideology", 30(1&2) *Indian Socio Legal Journal* (2004) at 83-85.
[35] *Human Rights* (J. R. Pennock and J. W. Chapman, New York: New York University Press, 1981) at 19-21.
[36] see Davidson 1993: 39-45; Donnelly 1998: 18-35; Forsythe 2000: 28-52

development, and self-esteem. Cultural rights on the other hand, include such rights as the right to the benefits of culture; the right to indigenous land, rituals, and shared cultural practices; and the right to speak one's own language and 'mother tongue' education. Cultural rights are meant to maintain and promote sub-national cultural affiliations and collective identities, and protect minority communities against the incursions of national assimilations and nation building projects. In contrast to the first set of rights, this second set of social, economic, and cultural rights is often seen as an inspirational and programmatic set of rights that national governments ought to strive to achieve through progressive implementation. They have thus been considered less fundamental than the first set of rights and are seen as 'positive' rights whose realization depends heavily on the fiscal capacity of states.[37]

Third generation rights: It cover group and collective rights, which include, *inter alia*, the right to development, the right to peace and the right to a clean environment. The only third generation right which so far has been given an official human rights status - apart from the right to self-determination, which is of longer standing - is the right to development (see the Declaration on the Right to Development, adopted by the UNGA on 4 December 1986, and the 1993 Vienna Declaration and Programme of Action (Paragraph I, 10)). The Vienna Declaration confirms the right to development as a collective as well as an individual right, individuals being regarded as the primary subjects of development. Recently, the right to development has been given considerable attention in the activities of the High Commissioner for Human Rights. The EU and its member states also explicitly accept the right to development as part of the human rights concept.

While the classification of rights into 'generations' has the virtue of incorporating communal and collective rights, thereby overcoming the individualist moral theory in which human rights are grounded, it has been criticised for not being historically accurate and for establishing a sharp distinction between all human rights. Indeed, the concept of generations of rights is at odds with the Teheran Proclamation and the Vienna Declaration and Programme of Action, which establish that all rights are indivisible, interdependent and interrelated.

Challenges to Human Rights in Today's World:[38] The impact of several changes in the world today on human rights has been both negative and positive. In particular, the risks posed by

[37] Davidson 1993; Harris 1998: 9; see also Foweraker and Landman1997: 14-17

[38] *Human Rights: New Dimensions and Challenges* (J. Symonides ed., Aldershot: Ashgate, 1998) at 17-23.

advancements in science and technology may severely hinder the implementation of human rights if not handled carefully.

In the field of biotechnology and medicine especially there is strong need for human rights to be absorbed into ethical codes and for all professionals to ensure that basic human dignity is protected under all circumstances.

For instance, with the possibility of transplanting organs from both the living and dead, a number of issues arise such as consent to donation, the definition of death to prevent premature harvesting, an equal chance at transplantation etc.

Genetic engineering also brings with it the dangers of gene mutation and all the problems associated with cloning. In order to deal with these issues, the Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application and Medicine puts the welfare of the human being above society or science.

CHAPTER 5

Contravention of Human Rights in Bangladesh Perspectives

5.1 Violation of Human Rights in Bangladesh

The overall human rights situation of Bangladesh gives a mixed impression. While there have been some progresses, the drawbacks however, are no less alarming. The progresses include commencement of trial for the war crimes, implementing the judgment of Bangabandhu Killing, reconstituting the National Human Rights Commission. Steps in favour of the advancement of women includes adopting the Domestic Violence (prevention and protection) Act, measures to approve six-month maternity leave, submitting report under the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) etc. Steps taken in favour of child rights like the amended child policy is at the final stage, initiatives have also been taken to amend the child law. Worth mentioning is that Bangladesh achieved the MDG award for reducing child mortality. Moreover, Bangladesh has ratified the Rome Statute, adopted uniform and secular National Education Policy. Some primary initiatives have been taken for the implementation of the Chittagong Hill Tract Accord. Some welcoming decisions have come from the Higher Court such as declaring the *5th amendment* of the Constitution illegal by the Supreme Court, declaring the *7th amendment* of the Constitution illegal by the High Court, declaring *fatwa* to be unlawful, prohibiting physical punishment and mandatory veiling in educational institutions and workplaces, affirming State's responsibility to take care of the children born from rape. Nevertheless, very little progress has been observed to deliver expected result of the said initiatives. Bangladesh adopted a numbers of international and national legal frameworks to promote and protect human rights and fundamental freedom of all citizens. [39]

5.1.1 Policy of Human Rights in Bangladesh

The policies of human rights in Bangladesh can be articulated through the following dynamics:

[39] Voice of Youth Human Rights http://voicesofyouth.org/sections/human-rights/pages/human-rights-the-big-picture Accessed on 15-01-2012

5.1.2 Policy's Practice in Bangladesh

There are a numbers of challenges prevailing in Bangladesh, which is denying the national image and rights of a person as a human being. Some of these challenges are given below:

Extra judicial killing

The "extrajudicial killing" is a sever form of human rights violation that often denying justice. It has become as an integral part of law enforcement system in Bangladesh. Through the Constitution of Bangladesh and the UN's Universal Declaration of Human Rights strongly defined this act as violation of human rights, it is still continues in Bangladesh. The Government is failing to keep its commitment to end extrajudicial killings, torture, and other abuses by the Rapid Action Battalion (RAB) and police towards assuring their accountability. In spite of High Court's ruling, extrajudicial killings are continued that violates the rule of law of the country. According to Odhikar, 33 people were extra judicially killed by law enforcement agencies during the last three months (January to March 31, 2011). It means on an average every 03 days 01person is reported killed extra-judicially.[40]

Custodial torture and deaths

Custodial torture and death are strongly prohibited by the National and international laws. But in Bangladesh it has seen as a routine procedure to extract information from the accused persons in detention. In some cases, the victims simply 'disappear'. According to Odhikar report, 38 persons died in custody during last three months, and off them 25 were died in Jail (Jan. to March 2011).

Withdrawn of criminal cases (with political consideration)

There is a current trend that the Government withdrawn a number of criminal cases (i.e. with the charges of murder, rape, robbery, corruption, extortion and for keeping illegal arms), by defining it as "political harassment" cases. It has been reported that total 6,750 cases are withdrawn since Jan. 2011 by the "National review committee" for reviewing the cases for withdrawal. A total of 73,541 accused persons had been acquitted in this process. Without facing the judicial

[40] Practices and challenge of Human rights in Bangladesh http://www.scribd.com/doc/58370041/Assignment-1-Human-Rights-in-Bangladesh-Final Accessed on 20/12, 2011.

procedures, this type of case withdrawing process is not favorable for the country's rule of law and justice.

Political violence

The political violence is another form of human rights violation in Bangladesh like other third world countries. It has been observed that political domination, lack of democratic culture among political parties, mistrust, and un-law full exercise of power are the main contributing factors in the political violence in Bangladesh. It is reported (by Odhikar) that 30 persons were killed and 2,527 injured in political violence during last 3 months (Jan to March 2011). In addition to this, 4 were killed and 1,135 people were injured in Awami League internal conflicts while 1 was killed and 191 persons injured in internal conflicts of BNP. Therefore, the situation is not favorable for democracy and overall development of Bangladesh.[41]

Corruption

Corruption is another restricting force in advancing rule of law and human rights in Bangladesh
It is often denying the enforcement of law against the powerful perpetrators and limiting the hope of justice for the mass people. The scale of corruption "(introduced by Transparency International) is marked in below 3 (CPI scale= 2.4 out of 10), which is considered a matter of great concern for Bangladesh

Freedom of media

The constitution provides for freedom of speech and press, but the government frequently failed to respect these rights in practice. In recent time, the attack on journalists has come out as a concern. There was an increase in individuals affiliated with the government or ruling party harassing, arresting, or assaulting journalists. It is reported that (by Odhikar and media watchdog groups) at least 4 journalists were killed, 118 were injured, 2 were arrested, 43 were assaulted, 49 were threatened, and 12 had cases filed against them in 2010. During last 3 months (Jan to March 2011), 20 journalists were injured, 20 threatened and 10 journalists assaulted and 03 cases were filed against journalists.

[41] Practices and challenge of Human rights in Bangladesh http://www.scribd.com/doc/58370041/Assignment-1-Human-Rights-in-Bangladesh-Final Accessed on 20/12, 2011.

Border Killings

Border killing by the BSF is another miserable issue for the border lying people in Bangladesh. The poor and marginalized people in border lying areas are often crossing the border (due to unmarked natural border line between Bangladesh and India) for serving works and commence. While some of those killed are engaged in smuggling goods and contraband, BSF systematically use lethal force without justification. In spite of repeated complain of Bangladesh Government, the border killing is still continued. It is reported (by Odhikar) that at least 930 Bangladeshi nationals were killed by BSF in 2010. A number of Indian nationals have also been killed by BSF deployed at the border.

Illegal Fatwa

In spite of declaration by the High Court as illegal acts, the practice of fatwa is still continuing in Bangladesh. In recent time (January 31, 2011), Hena Akhter died being a victim of illegal fatwa at Noria in Shariatpur district due to lashings by locals in mediation on January 24, 2011. Police could not arrest 11 of the 18 accused persons in the Hena murder case. In response to this case, Bangladesh's Supreme Court has ruled against 'fatwa' (Islamic religious edict) being issued as punishment against hapless women. It said "no punishment including physical violence or mental torture in any form can be imposed or implicated on any body in pursuance of fatwa". It is noticed by the Supreme Court that fatwa on religious matter may be given by the "properly educated persons", which may be "accepted only voluntarily, but any coercion or undue influence in any form is forbidden"

Violence against women

Violence against women is alarming in context of traditional socio-legal structures in Bangladesh. It is observed that the women and girls are mainly becoming the victim of violence. During last 3 moths, women and girls were victimised by 29 acid violence, 104 dowry related violence, 127 rapes and 203 sexual harassment. 4.10 Freedom of Peaceful Assembly and Association In spite of the constitutional provisions for freedom of assembly and association, the law enforcing agencies to some extent making some restriction in certain areas in the name of

traffic and security concern. The restriction is ultimately blaming to the Government (by the opposition) as violation of freedom of assembly.[42]

Rights violation of ready-made garments workers

It is frequently reported that the rights of garments workers are violated in terms of minimum wage for their labor and safe working environment. The leaders of the garments workers are often claiming their rights issues and often declaring the strike to achieve it. The process is often creating mistrust between the garments owners and the workers that turns into a conflicting situation. It was reported (in 2010) that 7 garments workers died and 2,538 persons were injured. In last 3 months of 2011, 2 workers are died and 319 are injured while protesting in demand of either overdue wages or for an increase in wages and against other work related violence in the readymade garments sectors. The situation is reflecting continues forms of violent acts against the garments workers in Bangladesh.

5.2 Liability of government in violating Human rights in Bangladesh

Situational Dimension of Human Rights: The human rights situation of Bangladesh shows that there is sufficient scope for the Supreme Court to get involved and address those human rights issues due to its constitutional position. Bangladesh is a place where human rights violations have a multiphase dimension. The gravity of this is added by the existing socio-political system. Political immaturity is also causing intolerable results. It is difficult to find a single space in the public domain where some kind of human rights violation is not taking place. It is happening from individual to group level. Large-scale human rights violations also happen often. ***Mr. Junied Haque***[43], a victim of human rights violation, said that:

> "It is not only the politically powerful, but also small groups, big masses or even an individual that are causing human rights violations. Some of the violations are caused due to the Government's negligence or from the careless attitude of the people."

[42] Handicap International http://www.making-prsp-inclusive.org/en/6-disability/61-what-is-disability/611-the-four-models.html Accessed on 25-12-2011

[43] Interviewed on 2nd August 2010.

Right to Life: Everyone has the right to life, liberty and security of person.[44] Every human being has the inherent right to life and this right must be protected by law. The UDHR also declare that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment and punishment",[45] has also been totally flouted. Those rights are also granted by our constitution as our fundamental rights.[46]

Violation of Right to Life: Those rights are always violated even our constitution granted those rights as our fundamental rights. There are many facts which are well known to us by several newspaper in (2001-2003) relating to violation of right to life likes, "a Hindu prisoner who used to perform 'namaz' five times a day like the Muslims because he could escape torture only during prayer times or a college professor, who was inhumanly tortured to confess that he had raped several non women."[47] The UDHR and also The Constitution of Bangladesh declare "No one shall be subjected to arbitrary arrest and detained."[48] In real the arrests of thousands of men, young and old, were made arbitrarily and the detainees were never given any reasons for their arrests and sometime they never take the chance to consult and be defended by a legal

[44] Article 3 of the UDHR.
[45] Article 5 of the UDHR.
[46] Article 32 of the Constitution of Peoples Republic of Bangladesh.
[47] Advocate Md. Kamal Parvaze Ain o Salish Kendra (ASK)
[48] Supra note 4.

Chapter 6

Concluding Remarks

6.1 Recommendations

1. The citizens of Bangladesh have limited scope to enjoy the human rights laid down in International Human Rights Instruments.
2. Right to Life, Vote, Freedom of Expression are always violated even our constitutions granted those right as our fundamental right.
3. Most of the police cannot investigate properly due to the political interference.
4. Our judiciary cannot take immediate action for the enforcement of human rights.
5. The executive body allows corruption and cannot take effective steps to execute the judicial decision.
6. The Bangladesh Government should create proper environment to enjoy the human rights in Bangladesh and International Instruments.
7. The Bangladesh Government should protect the fundamental rights of the citizens which are guaranteed by the Constitution of Bangladesh.
8. The political interference should be remove as far as police is concerned when they investigate, collect of evidence and produce witness against the violator of human rights.
9. Our judiciary should take immediate action for the enforcement of the human rights.
10. Our Executive Body should be neutral and they should take effective steps to execute the judicial decisions.

6.2 Conclusion:

The whole research in based on the in protecting human rights .to draw up the role of the judiciary, it has analyzed the evolvement of human rights from which concept of the protection of human rights has gradually developed; defined and categorized human rights discussed existing international human rights instrument i.e. declarations and convention; investigated the role of the Bangladesh judiciary in protecting human rights under the constitution ;examined the precedent and focused the court position therein ;showed the scenario of the implementation of human rights in various countries and described the function of the domestic court and its judges in protecting human rights .it also acts on the positive and negative dimension of human rights .though this research has showed the international human rights and protection, but it has emphasized on the role of the judiciary in protecting human rights under the preview of the Bangladesh constitution.

Therefore, the supreme responsibility belongs to the judges, the heart of judiciary. Through out the research paper I have demonstrated some weakness to the judiciary, evasion of that weakness will be an effort towards protection of human rights as well as to uphold standard norms.

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