


# “Protection of Human Rights under the Bangladesh’s Constitutional Scheme: A Critical Review”

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**Research Monograph**
**On**

# Protection of Human Rights under the Bangladesh's Constitutional Scheme: A Critical Review

In the partial fulfillment of the requirements for the degree of Bachelor of Laws (Honours).

**Submitted To:**

**Md. Deedarul Islam Bhuiyan**
Assistant Professor & Head
Department of Law
Sonargaon University

**Submitted By:**

**Iqbal Ahmed**
ID No: LLB-1903018050
Batch: 18th
Program: LLB (Hon's)
Department of Law
Sonargaon University

**Date of Submission: 5th September, 2023**

# Acknowledgement

I owe my gratitude to the Almighty Allah in whom, and through whom all the work that went in to this thesis was made possible.

I am pleased to acknowledge the tremendous guidance, assistance, encouragement and help which I received from certain sectors during the writing of this research paper. I would like to express my deepest gratitude to my honorable supervisor **Md. Deedarul Islam Bhuiyan,** Assistant Professor & Head, Department of Law, Sonargaon University (SU) for his sincere guidance and assistance for the accomplishment of this paper. I will remain grateful to my supervisor who help me enough according to my expectations. His wisdom is invaluable and was always timely.

This research is dedicated to my beloved mother and all of my righteous teachers who are still waiting for my success and wants nothing else.

I hope that my work shall be satisfactory. If I have done any mistake, it might be unknowingly and in that I beg pardon.

# Letter of Transmittal

Date: 5th September, 2023

To
Md. Deedarul Islam Bhuiyan
Assistant Professor & Head
Department of Law
Sonargaon University (SU).

**Subject: Submission of Research Monograph on "Protection of Human Rights under the Bangladesh's Constitutional Scheme: A Critical Review".**

Dear Sir,

It is a great pleasure to submit my research monograph on "Protection of Human Rights under the Bangladesh's Constitutional Scheme: A Critical Review". I have given best efforts to finish the Research monograph Paper with relevant information that I have collected from various sources. I have concentrated my efforts to achieve the objectives of the work and hope that my endeavor will serve the purpose.

I respectfully acknowledge your guidance, leadership and help for the preparation of this paper. I shall be very grateful and obliged if you kindly accept my research and evaluate it.

Sincerely Yours,

**Iqbal Ahmed**
ID No: LLB-1903018050
Batch: 18th
Program: LLB (Hon's)
Department of Law
Sonargaon University (SU)

## Certification by the Supervisor

This is to certify that the Research Monograph entitled **"Protection of Human Rights under the Bangladesh's Constitutional Scheme: A Critical Review"** is done by **Iqbal Ahmed** in partial fulfillment of the requirement for the degree of LL.B (Honours), **ID No: LLB-1903018050**, from the Department of Law, Sonargaon University (SU). The Research Monograph has been carried out under my guidance is a record of the *bona fide* work.

It is to be certified that this research work is original and suitable in its style and contents for submission and fulfillment of his Bachelor of Laws (Honours).

**Md. Deedarul Islam Bhuiyan**
Assistant Professor & Head
Department of Law
Sonargaon University (SU)

# Declaration

I would like to hereby do solemnly declare that this submission of research on **"Protection of Human Rights under the Bangladesh's Constitutional Scheme: A Critical Review"** is my original and own work to the best of my knowledge and belief as a part of LL.B.(Honours) degree under the supervisor **Md. Deedarul Islam Bhuiyan,** Assistant Professor & Head, Department of Law, Sonargaon University.

Alongside, I agree to deposit this research in the University's open access institutional repository or allow the library to do so on my behalf, subject to the national copyright laws and University regulations and conditions.

I also declares that it contains no writings which were previously published or invented earlier, except where I have made due acknowledgement with proper references.

Sincerely Yours,

**Iqbal Ahmed**
ID No: LLB-1903018050
Batch: 18th
Program: LLB (Hon's)
Department of Law
Sonargaon University (SU)

# Abbreviations

| | |
|---|---|
| BHRW | : Bangladesh Human Rights Watch |
| CrPC | : Code of Criminal Procedure |
| DGP | : Director General of Police |
| DIG | : Deputy Inspector General |
| IG | : Inspector General |
| HCD | : High Court Division |
| HPI | : Human Poverty Index |
| ILO | : International Labor Organization |
| LDC | : Least Developed Countries |
| LGBT | : Lesbian Gay Bisexual Transgender |
| NGO | : Non-Governmental Organization |
| UDHR | : Universal Declaration of Human Rights |
| US | : United States |
| UN | : United Nation |
| ICCPR | : International Covenant on Civil and Political Rights |
| ICESCR | : International Covenant on Economic, Social and Cultural Rights |
| DRD | : Declaration on the Right to Development |

# ABSTRACT

*Protection of human rights in Bangladesh is a buzzword today and the effective policy may play a vital role for these. Human rights constitute a set of norms governing the treatment of individuals and groups by states and non-state actors on the basis of ethical principles regarding what society considers fundamental to a decent life. These norms are incorporated into national and international legal systems, which specify mechanisms and procedures to hold the duty-bearers accountable and provide redress for alleged victims of human rights violations. Police enforce existing laws for the sake of ensuring justice and protecting human rights via application of Bangladesh Constitution, The Police Act 1861 & The UDHR 1948. Moreover, through the use of CrPC 1898 and Special Powers Act 1974, the Police get some special powers to further uphold justice or which act as legal backup for the above provisions mentioned. Police can play vital role in criminal justice system by making investigation and final report for discharging an innocent, keep role to get the right of fair trial and also by arresting suspected person. And thus protect human rights honestly. But human rights are sometimes violated by police force itself when they misuse their power for personal interest, for political influence or for others causes. This study has tried to explore the powers of police which may help them in protecting human rights and to find out the limitations faced by them to perform their assigned duty for this purpose. I also suggest some recommendations for overcoming existing shortcomings so that the police may be turned into a positive force and protect human rights efficiently.*

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# Chapter-I
# Introductory Part

## 1.1 Introduction

Human Rights protection is a sorrowing all over the world and the police as a law enforcing agency needs to play decisive role in this regard. The Bangladesh Constitution, The Police Act, 1861; The Universal Declaration of Human Rights, 1948 (UDHR) etc. provide legal provisions for protection of human rights in Bangladesh and there is also an organized police force in Bangladesh to uphold this protection. Many people know something about their rights. Generally, they know they have the right to food and a safe place to stay. They know they have a right to be paid for the work they do. But there are many other rights. Police enforce existing laws and also get some special powers for the sake of ensuring justice and protecting human rights under The Code of Criminal Procedure, 1898 (CrPC) and Special Power Act, 1974. Police may help a victim to get justice by making investigation and final report for discharging an innocent or make charge sheet for proceeding to trial stage, and thus keep role to get the right of fair trial etc. Police may also prevent violation of human rights by arresting suspected persons before the committal of the offence.[1] But human rights situation of Bangladesh is neglected and sometimes violated by police itself when they misuse their power for personal interest or for political influence. In Bangladesh, an approach under which the right to education can be ensured will create a unique regime that will be more favorable to protecting other human rights. A foundation of basic education and literacy expands an individual's economic and social opportunities, helping to acquire better job with higher and more dependable income. Education can also be a powerful vehicle for improving awareness on other social issues, such as healthcare and the uptake of preventive health service.

The protection of human rights should stand alongside the prevention and detection of crime and the preservation of social order is one of the primary functions of police system. Protection of and respect for human rights are so integral to policing that the creation of a human rights culture within police agencies, is one of the most important tasks faced by police leaders at present. To recognize the human rights culture, the police, as a member of the human family, should enjoy some human rights for themselves such as the right to life, the economic, social and cultural rights etc. The ways in which a police official is recruited, trained, equipped, briefed, deployed and supervised can have a direct impact on whether or not he or she is killed

[1] Tribal peoples, nationalism and the human rights challenge: The Adivasis of Bangladesh (2005).

or survives in a potentially fatal situation. So, the special human rights needed by police should also be acknowledged and tried to be met. The relationship between human rights and policing should be characterized by these three concepts protection and respect to human rights for public and entitlement of human rights for their own. In Bangladesh, an organized police force headed by Inspector General of Police has been set up as a national force to keep social orders and to protect human rights by enforcing related legal provisions.[2]

Human Rights Education has similar practices and approaches to other forms of education (Such as peace, environment, civics, Treaty of Waitangi, union, health, and development education) It needs to be recognized, however, as distinct from them in its substance.

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.

[2] Zafarullah, Habib Mohammad, and Md Habibur Rahman. "Human rights, civil society and non-governmental organizations: The nexus in Bangladesh." Human Rights Quarterly 24, no. 4 (2002): 1011-1034.

## 1.2 Objectives of the Research

The Constitution of Bangladesh incorporates, as a sequence, the noble provisions and principles of human rights as enshrined in the instruments, municipal or international, e.g., UDHR, ICCPR, ICESCR, DGICCP, DRD and different country constitutions. But whether it has been able to contain all the human rights provisions of the noble instruments and/or whether appropriate and effective measures have been taken for the proper and effective exercise and enjoyment of the rights are a big question. The main objective of the present study is, therefore, to have an idea on the incorporation of human rights, as principle rights or as fundamental rights, in the Constitution of Bangladesh. Alongside with the main one, the auxiliary objectives are, however, as follows:

- To see how the first Constitution of Bangladesh accommodated human rights,
- To find out which human rights are yet to be incorporated in the Constitution of Bangladesh, and to make a suggestion as to how the Constitution of Bangladesh could be a role model for other countries in respect of accommodating and ensuring human rights of the people.
- To analyzed the concept of Human Rights of Bangladesh.
- To examine the mechanism for protected of the human rights in Bangladesh.

## 1.3 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”. 2 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. 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).

### 1.4 Research Methodology

Only secondary sources of information or data are used in the study. Primary data are not preferred because of people of Bangladesh being felt no much interested in or concerned to what constitution means by principle rights, fundamental rights or even, in some cases, human rights. Secondary data are collected from notable authorities on law, different journals, daily newspapers, the Holy Scriptures, the Quran or Hadith, internet etc. Data are gone through and analyzed, keeping in mind the objectives of the study. The analysis is assessed and commentaries made by different authorities addressed and accommodated in preparing the result.

### 1.5 Limitation of the Research

Many a times the selected interviewee is not similar with other profession and social status. As a result, a household also varies for the study. But the average size of the entire selected residence or office is not closer to each other. The sample size of the study is above hundred. Such sample sizeseems inadequate to make a generalization. But it is true that the study has not collected data only from one hundred and twenty-five respondents rather the observation method has also been followed.

A researcher's manageability mainly depends on time, money, personal skill and capacity. As an individual effort, time, money and labor constraints havelimited my study to some extent. It has been found difficult to conduct research on such elite as well as inaccessible people. In spite of this, an utmost endeavor has been made to collect real and reliable data. Similarly, it is very difficult to calculate one's income in an agriculturalsociety. Therefore, in determining age and income, we had to depend on a complex process of calculation and personal assumption. It has not been possible all the data collected for the study because of space constraint. Similarly, many analyses have also not been presented in this study. In some cases, analyses have been made in brief.

## Chapter-II
## Conceptual Framework

### 2.1 Definition of Human Rights

Human Rights can generally be defined as such rights which we are inherent in our nature and without which we cannot live as human being. Human rights and fundamental freedoms allow us to fully develop and use our human qualities, our intelligence, and our conscience and satisfy our spiritual and other needs. Human rights are basic rights and freedoms that all people are entitled to regardless of nationality, sex, national or ethnic origin, race, religion, language, or other status.

Human rights also include civil and political rights, such as the right to life, liberty and freedom of expression; and social, cultural and economic rights including the right to participate in culture, the right to food, and the right to work and receive an education.[3] The following definition expresses clearly the meaning of human rights:

"A human right is a universal moral right, something which all men, everywhere, at all times ought to have, something of which no one may be deprived without a grave affront to justice, something which is owing to every human simply because he is human."[4]

An alternative explanation was provided by the philosopher Kant. He said that human beings have an intrinsic value absent in inanimate objects. To violate a human right would therefore be a failure to recognize the worth of human life.[5] The modern human right covers under its umbrella three different types of rights:

**(i)** The fundamental freedoms or classical civil liberties,

**(ii)** Ethnic and religious rights

**(iii)** Socio-economic rights.

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[3] Article 1(3) of the United Nations charter & Universal Declaration of Human Rights (UDHR).
[4] S. Augender, "Questioning the Universality of Human Rights", 28(1&2) Indian Socio Legal Journal (2002) at 80.
[5] A. I. Melden, Rights and Persons (Berkeley: University of California Press, 1977) at 189.

Some constitutions have enumerated the first or the first and the second and attempted to set up judicial enforcement of such rights. The third category has not been stated in a constitution in an enforceable form, but some constitutions refer to them as directive principles of state policy.

Human 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. Whatever their theoretical justification, human rights refer to a wide continuum of values or capabilities thought to enhance human agency or protect human interests and declared to be universal in character, in some sense equally claimed for all human beings, present and future.

It is a common observation that human beings everywhere require the realization of diverse values or capabilities to ensure their individual and collective well-being. It also is a common observation that this requirement whether conceived or expressed as a moral or a legal demand is often painfully frustrated by social as well as natural forces, resulting in exploitation, oppression, persecution, and other forms of deprivation. Deeply rooted in these twin observations are the beginnings of what today are called “Human Rights” and the national and international legal processes associated with them.

### 2.2 Approaches to Human Rights

A human rights-based approach (HRBA) is a conceptual framework that can be applied to advocacy, litigation, and programming and is explicitly shaped by international human rights law. This approach can be integrated into a broad range of program areas, including health, education, law, governance, employment, and social and economic security. While there is no one definition or model of a HRBA, the United Nations has articulated several common principles to guide the mainstreaming of human rights into program and advocacy work:

The integration of human rights law and principles should be visible in all work, and the aim of all programs and activities should be to contribute directly to the realization of one or more human rights.

Human rights principles include: “universality and inalienability; indivisibility; interdependence and interrelatedness; non-discrimination and equality; participation and

inclusion; accountability and the rule of law."[6] They should inform all stages of programming and advocacy work, including assessment, design and planning, implementation, monitoring and evaluation. Human rights principles should also be embodied in the processes of work to strengthen rights-related outcomes. Participation and transparency should be incorporated at all stages and all actors must be accountable for their participation.

A HRBA specifically calls for human rights to guide relationships between rights-holders (individuals and groups with rights) and the duty-bearers (actors with an obligation to fulfill those rights, such as States).[7] With respect to programming, this requires "assessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights."[8]

A HRBA is intended to strengthen the capacities of rights-holders to claims their entitlements and to enable duty-bearers to meet their obligations, as defined by international human rights law. A HRBA also draws attention to marginalized, disadvantaged and excluded populations, ensuring that they are considered both rights-holders and duty-bearers, and endowing all populations with the ability to participate in the process and outcomes.

There are many benefits to using a human rights-based approach to programming, litigation and advocacy. It lends legitimacy to the activity because a HRBA is based upon international law and accepted globally. A HRBA highlights marginalized and vulnerable populations. A HRBA is effective in reinforcing both human rights and public health objectives, particularly with respect to highly stigmatizing health issues.[9] Other benefits to implementing a human rights-based approach include:

- Participation: Increases and strengthens the participation of the local community.
- Accountability: Improves transparency and accountability.
- Non-discrimination: Reduces vulnerabilities by focusing on the most marginalized and excluded in society.

[6] For a brief explanation of these principles, UN Development Group (UNDG), The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies (May 2003),
[7] Ibid.
[8] Ibid.
[9] Gauri V & Gloppen S, Human Rights Based Approaches to Development: Concepts, Evidence, and Policy, World Bank Policy Research.

- Empowerment: Capacity building.
- Linkage to rights: Promotes the realization of human rights and greater impact on policy and practice.
- Sustainability: Promotes sustainable results and sustained change.

## 2.3 Human Rights Instruments

### UN Charter

The UN charter has been signed by 150 countries today. Though its obligatory status was in question, it is now the accepted view that Article 56 makes it necessary for all signatories to respect and promote human rights. [10]

### Universal Declaration of Human Rights

Perhaps the most important document pertaining to human rights, it was adopted on 10th December, 1948 and the day is celebrated as Human Rights Day every Year. The Declaration specifies a common standard of achievement for all nations of the world and a number of UN bodies are responsible for implementing its contents.[11]

### UN High Commission on Human Rights

This body created by the Economic and Social Council in 1947 makes recommendations on conventions, declarations and other issues like the status of women.[12]

### UN High Commissioner for Human Rights

The High Commissioner's duties include investigating human rights violations, helping governments arrange mechanisms to protect human rights and submitting periodic reviews to the High Commission on Human Rights.[13]

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[10] N. Singh, Enforcement of Human Rights (Calcutta: Eastern Law House Pvt. Ltd., 1986) at 15-18.
[11] Human Rights in the Changing World (E. S. Venkataramiah J. ed., New Delhi: International Law Association, 1988) at 12-16.
[12] D. J. Ravindran, Human Rights Praxis: A Resource Book for Study, Action and Reflection (Chennai: Earthworm Books, 1998) at 251-253.
[13] The United Nations and Human Rights 18th Report of the Commission to Study the Organization of Peace (New York: Oceana Publications Inc., 1968) at 8.

**Declaration of the Rights of the Child 1923**

The Declaration of the Rights of the Child is the name given to a series of related children's rights proclamations. The first was drafted by Eglantyne Jebb and adopted by the International Save the Children Union, Geneva, on February 23, 1923 and endorsed by the League of Nations General Assembly on November 26, 1924 as the World Child Welfare Charter.[14] On 20 November 1959 the United Nations General Assembly adopted a much expanded version as its own Declaration of the Rights of the Child. 2008 United Nations General Assembly *Resolution* 1386 session 14 Declaration of the Rights of the Child on 20 November 1959.

**International Covenant on Economic, Social, and Cultural Rights (ICESCR)1966**

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral treaty adopted by the United Nations General Assembly on December 16, 1966, and in force from January 3, 1976. It commits its parties to work toward the granting of economic, social, and cultural rights (ESCR) to individuals, including labor rights and rights to health, education, and an adequate standard of living. As of June 2, 2008, the Covenant had 158 parties.[15] A further five countries had signed, but not yet ratified the Covenant.

The ICESCR is part of the International Bill of Human Rights, along with the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), including the latter's first and second Optional Protocols.[16] The Covenant follows the structure of the UDHR and ICCPR, with a preamble and thirty-one articles, divided into five parts.

**Convention Against Torture (CAT)**

The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is an international human rights instrument, under the purview of the United Nations, that aims to prevent torture around the world.

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[14] "The United Nations Decade for Human Rights Education", 1995 - 2004", United Nations General Assembly, issued 7 Sept 2000, retrieved 7 May 2007.

[15] *ICESCR ratification status". UN OHCHR (2008-04-18). Retrieved on 2008-06-02*

[15] Retrieved on *2008-06-02"Fact Sheet No.2 (Rev.1), The International Bill of Human Rights*". UN OHCHR (June 1996).

The Convention requires states to take effective measures to prevent torture within their borders, and forbids states to return people to their home country if there is reason to believe they will be tortured.

The text of the Convention was adopted by the United Nations General Assembly on 10 December 1984 and, following ratification by the 20th state party, it came into force on 26 June 1987. 26 June is now recognized as the International Day in Support of Torture Victims, in honor of the Convention. As of June 2008, 145 nations are parties to the treaty, and another nine have signed but not ratified it. The Covenant follows the structure of the UDHR and ICCPR, with a preamble and thirty three articles, divided into three parts.

**Convention on the Rights of the Child (CRC)**

The United Nations Convention on the Rights of the Child often referred to as CRC or UNCRC, is an international convention setting out the civil, political, economic, social and cultural rights of children. Nations that ratify this international convention are bound by it by international law.

The United Nations General Assembly adopted the Convention and opened it for signature on 20 November 1989 (the 30th anniversary of its Declaration of the Rights of the Child).[17] On 20 November 1989 it came into force on 2 September 1990, after it was ratified by the required number of nations. All member nation states (countries) of the United Nations, except the United States and Somalia, have ratified it. The Convention generally defines a child as any person under the age of 18, unless an earlier age of majority is recognized by a country's law.

A number of international conventions such as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, safeguard human rights.[18] Conventions like the European Convention on Human Rights, the American Convention on Human Rights and the African Charter on Human's and People's Rights exist at the regional level.[19]

[17] United Nations General Assembly *Resolution* 25 session 44 Convention on the Rights of the Child The following section summarizes the text of the Convention.
[18] *Supra* note 13, at 37.
[19] Supra note 1, at 77-79.

## 2.4 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.
iii) Effective organized (existing within the framework of the state) or unorganized guarantees. [20]

**2.5 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.[21]

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.[22]

**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.[23] They have also been seen as so-called 'negative' rights since they merely require the absence of their violation in order to be upheld.

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

**Second Generation Rights:** The second-generation rights are related to equality, including economic, social and cultural rights. They include 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 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.[24]

**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

[24] Davidson 1993; Harris 1998: 9; Foweraker and Landman1997: 14-17

odds with the Teheran Proclamation and the Vienna Declaration and Programme of Action, which establish that all rights are indivisible, interdependent and interrelated.

### 2.6 Challenges to Human Rights now a days:[25]

The impact of several changes in the world today on human rights has been both negative and positive. In particular, the risks posed by 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.

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

## Chapter-III
## Evolution of Human Rights

### 3.1 Magna Carta

The Magna Carta, which is Latin for The Great Charter, was a list of demands and expectations forced on the evil King, John of England in 1215. King John was so evil, he heavily taxed his people, arbitrarily took their possessions and threw them into prison for the slightest reason. By sealing the Magna Carta, King John was agreeing to follow the laws of the land. It gave the people a mechanism to limit the power of the King and assert their rights.

The Magna Carta established the rule of law and the idea that all citizens, including those in power, should be fairly and equally ruled by the law. It began the tradition of respecting the law, limiting government power, providing access to justice and the protection of human rights.

The most famous clauses of the Magna Carta are clauses 39 and 40:

**Clause 39:** No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.

**Clause 40:** To no one will we sell, to no one will we refuse or delay, right or justice. Reissues of Magna Carta reinforced the rights and freedoms it gave the people and the right to limit the power of the government.

The legacy of the Magna Carta is seen not only in English law, but throughout the world. The true power of the Magna Carta lies in its impact on later documents, and the creation of a culture of the rule of law and a respect for individual's rights by those in power. This resource explores the legacy of the Magna Carta and its effect on human rights documents, tracing the evolution from the Magna Carta to the Universal Declaration of Human Rights, and giving an overview of the relationship between the Magna Carta and Human Rights.

compelling the jailer/king/State to bring the prisoner to court to explain why they are held captive and if no legal reason is found, they must be released.

### 3.2 Bill of Rights in United States of America (USA)

The drafters of the US Declaration of Independence, Constitution and Bill of Rights wanted to recognize the same rights as they had in England and strived for protection from oppressive rule through checks on government power. They drew inspiration from the English legacy of Sir Edward Coke's Petition of Right and the Magna Carta. It declared Governments are instituted among Men, deriving their just powers from the consent of the governed. The 5th Amendment to the Constitution (part of the Bill of Rights) is derived from Magna Carta 'no person shall… be deprived of life, liberty, or property, without due process of law.'

### 3.3 European Convention on Human Rights

The European Convention on Human Rights (ECHR; formally the Convention for the Protection of Human Rights and Fundamental Freedoms) is an international convention to protect human rights and political freedoms in Europe. Drafted in 1950 by the then newly formed Council of Europe,[26] the convention entered into force on 3 September 1953. All Council of Europe member states are party to the convention and new members are expected to ratify the convention at the earliest opportunity.[27]

The convention established the European Court of Human Rights (generally referred to by the initials ECtHR). Any person who feels their rights have been violated under the convention by a state party can take a case to the court. Judgments finding violations are binding on the states concerned and they are obliged to execute them. The Committee of Ministers of the Council of Europe monitors the execution of judgments, particularly to ensure payments awarded by the court appropriately compensate applicants for the damage they have sustained.[28] The convention has eleven protocols, which amend the convention framework.[29] The convention has had a significant influence on the law in Council of Europe member countries[30] and is widely considered the most effective international treaty for human rights protection.

[26] The Council of Europe should not be confused with the Council of the European Union or the European Council.

[27] Resolution 1031 (1994) on the honouring of commitments entered into by member states when joining the Council of Europe Archived 10 January 2010 at the Wayback Machine.

[28] European Convention on Human Rights.

[29] European Convention on Human Rights Guide for the Civil & Public Service (Report).

[30] Irish Human Rights Commission. 2012.

### 3.4 ICCPR and ICESCR 1966

The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) provide a detailed description of the rights presented in the UDHR, for modern times. The legacy of the Magna Carta can be seen in many of the clauses.

For example, Article 9 of the ICCPR aligns with clause 40 of the Magna Carta and due process:

Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.

Article 2 of the ICESCR relates to the Magna Carta and the rule of law generally:

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

### 3.5 Universal Declaration of Human Rights 1948 (UDHR)

The UNDHR is a treaty that preserves peoples' peace and freedom and is considered the Magna Carta of our age. It was the first declaration that recognized the fundamental rights and values of all people, everywhere. Drafted by Eleanor Roosevelt, Chair of the UN Commission on Human Rights, the UNDHR recognizes its origins: 'The international Magna Carta is for all men everywhere.'

### 3.6 Bangladesh Constitution

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***, 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."

**Right to Life:**

Everyone has the right to life, liberty and security of person.[31] 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",[32] has also been totally flouted. Those rights are also granted by our constitution as our fundamental rights.[33]

**Right to Personal Liberty:**

Everyone has the right to life, liberty and security of person.[34] The UDHR and also The Constitution of Bangladesh declare "No one shall be subjected to arbitrary arrest and detained."[35] No one shall be subject to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.[36] Everyone has the right to freedom of movement and residence within the borders of each state.[37]

**Right to Equality:**

The Constitution of Bangladesh declares Equality before law, Discrimination on grounds of religion, race caste, sex or place of birth & Equality of opportunity in public employment as basic guarantees.[38] Universal Declaration of Human Rights, states all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood and also states all human rights are equal before the law and are entitled, without any discrimination, to equal protection of the law.[39] Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stage. Elementary education shall be compulsory. Technical and profession

**31** Article 3 of the UDHR.
**32** Article 5 of the UDHR.
**33** Article 32 of the Constitution of Peoples Republic of Bangladesh.
**34** Article 3 of the UDHR.
**35** Article 9 of the UDHR and Article 33 of the Constitution of Peoples Republic of Bangladesh.
36 Article 12 of the UDHR.
37 Article 13 of the UDHR.
38 Article 27, 28 & 29 of the Constitution of Peoples Republic of Bangladesh.
39 Article 1 and 7 of the United Nations Universal Declaration of Human Rights.

education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.[40]

**Right to Vote:**

Right to vote is a human right as well as important citizenship and democratic right. Political participation is the basis of democracy and a vital part of the enjoyment of all human rights. The right of all people to vote in elections, without any discrimination, is one of the most fundamental of all human rights and civil liberties. The right to vote, without discrimination, is set out in the International Covenant on Civil and Political Rights (article 25) and the International Covenant on the Elimination of Racial Discrimination (article 5(c)). Everyone has the right to take part in the government of his country, directly or through freely chosen representatives and the will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.[41]

**Right to Freedom of Expression:**

Constitution of the People's Republic of Bangladesh ensured freedom of speech and expression.[42] Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.[43]

About the profession journalist ***Mahmud Iqbal***[44] says that, "Job of a Journalist is very risky not only in our country but also all over the developing and under developing countries especially when a devoted one wants to publish or to produce a fact which hampers the interests of egoists or the persons in power."

About the violation of freedom of expression thought ***Farhad Hossain Talukder***[45] says that, "Article 39 is allows violated in a high rate by the government bodies or political person who are in power. This violation also increasing highly when the government comes to the power by support of army or the Army backed care taker government."

[40] Article 26 of the United Nations Universal Declaration of Human Rights
[41] Article 21 of the United Nations Universal Declaration of Human Rights.
[42] Article 39 (1, 2) of Part-III.
[43] Article 19 of the Universal Declaration of Human Rights.
[44] The Daily Prothom Alo, 25 July 2010.
[45] Reporter, News & Current Affairs (NCA), 28 July 2010.

## Chapter-IV
## Human Rights & Constitution of Bangladesh

### 4.1 Concept of Rights and Human Rights

“Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law, Whereas it is essential to promote the development of friendly relations between nations, Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms.”

The above is an extract from the preamble of the United Nations Universal Declaration of Human Rights, agreed upon at the General Assembly on the 10th of December 1948. The Declaration laid the foundation for international human rights law and has, throughout time, become the guiding light for those who promote the reinforcement and respect for human rights worldwide.

For centuries, leaders and politicians of all states, even those who do not respect human rights themselves, have cited the Declaration and recognized its values, in spite of current widespread violations of human rights norms across the globe. Articles of national Constitutions worldwide resemble that of the Declaration, often incorporating many of the rights inherent therein. As such, the Declaration had, and still has a remarkable impact on today's societies and states. Human rights are at the core of international law and international relations. They represent basic values common to all cultures, and must be respected by countries worldwide. Human

rights are inalienable fundamental rights to which a person is inherently entitled simply because he or she is a human being. The principle of equality and non-discrimination, as stipulated in Article 2 of the Declaration, is the cornerstone of the human rights protection system, enshrined in every human rights instrument, stipulating that;

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.”

### 4.2 Generation of Human Rights

The division of human rights into three generations was initially proposed in 1979 by the Czech jurist Karel Vasak at the International Institute of Human Rights in Strasbourg. He used the term at least as early as November 1977.[46] Vasak's theories have primarily taken root in European law.

In a speech two years later, his divisions follow the three watchwords of the French Revolution: Liberty, Equality, Fraternity. The three generations are reflected in some of the rubrics of the Charter of Fundamental Rights of the European Union. While the Universal Declaration of Human Rights lists first- and second-generation rights, the document itself does not specifically order them in accordance with Vasak's framework.

#### First-generation Human Rights

First-generation human rights, sometimes called "blue rights", deal essentially with liberty and participation in political life. They are fundamentally civil and political in nature: They serve negatively to protect the individual from excesses of the state. First-generation rights include, among other things, the right to life, equality before the law, freedom of speech, freedom of religion, property rights, the right to a fair trial, and voting rights. Some of these rights and the right to due process date back to the Magna Carta of 1215 and the Rights of Englishmen, which were expressed in the English Bill of Rights in 1689. A full set of first-generation human rights

[46] UNESDOC: UNESCO Digital Library.

as pioneered in France by the Declaration of the Rights of Man and of the Citizen in 1789, and by the United States Bill of Rights in 1791.

They were enshrined at the global level and given status in international law first by Articles 3 to 21 of the 1948 Universal Declaration of Human Rights and later in the 1966 International Covenant on Civil and Political Rights. In Europe, they were enshrined in the European Convention on Human Rights in 1953.

**Second-generation Human Rights**

Second-generation human rights are related to equality and began to be recognized by governments after World War II. They are fundamentally economic, social, and cultural in nature. They guarantee different members of the citizenry equal conditions and treatment. Secondary rights would include a right to be employed in just and favorable condition, rights to food, housing and health care, as well as social security and unemployment benefits. Like first-generation rights, they were also covered by the Universal Declaration of Human Rights, and further embodied in Articles 22 to 28 of the Universal Declaration, and the International Covenant on Economic, Social, and Cultural Rights.

In the United States of America, President Franklin D. Roosevelt proposed a Second Bill of Rights, covering much the same grounds, during his State of the Union Address on January 11, 1944. Today, many nations, states, or groups of nations have developed legally binding declarations guaranteeing comprehensive sets of human rights, e.g., the European Social Charter.

Some U.S. states have enacted some of these economic rights; for example, the state of New York has enshrined the right to a free education, [47][48] as well as "the right to organize and to bargain collectively",[49] and workers' compensation,[50] in its constitutional law.

These rights are sometimes referred to as "red" rights. They impose upon the government the duty to respect and promote and fulfill them, but this depends on the availability of resources. The duty is imposed on the state because it controls its own resources. No one has the direct

[47] N.Y. Const. ART. XI.
[48] Inc. v. State, 86 N.Y.2d 307 (1995).
[49] N.Y. Const. ART. I, 17.
[50] Constitution of the Republic of South Africa, 1996, s 26(1).

right to housing and right to education. (In South Africa, for instance, the right is not, per se, to housing, but rather "to have access to adequate housing", realized on a progressive basis.

**Third-generation Human Rights**

Third-generation human rights are those rights that go beyond the mere civil and social, as expressed in many progressive documents of international law, including the 1972 Stockholm Declaration of the United Nations Conference on the Human Environment, the 1992 Rio Declaration on Environment and Development, and other pieces of generally aspirational "soft law".

Also known as Solidarity human rights, they are rights that try to go beyond the framework of individual rights to focus on collective concepts, such as community or people. However, the term remains largely unofficial,[51] just as the also-used moniker of "green" rights, and thus houses an extremely broad spectrum of rights, including:

- Group and collective rights
- Right to self-determination
- Right to economic and social development
- Right to a healthy environment
- Right to natural resources
- Right to communicate and communication rights
- Right to participation in cultural heritage
- Rights to intergenerational equity and sustainability

The African Charter on Human and Peoples' Rights ensures many of those: the right to self-determination, right to development, right to natural resources and right to satisfactory environment.[52] Some countries also have constitutional mechanisms for safeguarding third-generation rights. For example, the Hungarian Parliamentary Commissioner for Future Generations,[53] the Parliament of Finland's Committee for the Future, and the erstwhile Commission for Future Generations in the Israeli Knesset.

Some international organizations have offices for safeguarding such rights. An example is the High Commissioner on National Minorities of the Organization for Security and Co-operation

[51] The Generations of Human's Rights.
[52] African Charter on Human and Peoples' Rights, Article 20, 21, 22 and 24.
[53] N.Y. Const. ART XIV, 5.

in Europe. The Directorate-General for the Environment of the European Commission has as its mission "protecting, preserving and improving the environment for present and future generations, and promoting sustainable development". A few jurisdictions have enacted provisions for environmental protection, e.g., New York's "forever wild" constitutional article,[54] which is enforceable by action of the New York State Attorney General or by any citizen ex rel. with the consent of the Appellate Division.[55]

### 4.3 Supervision of Fundamental Rights:

| SL | Article | Description of Rights |
|---|---|---|
| 1 | 27 | **Equality before law:** All citizens are equal before law and are entitled to equal protection of law. |
| 2 | 28(1) | **Discrimination on grounds of religion, etc.:** The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth. |
| 3 | 28(2) | **Equality between men and women:** Women shall have equal rights with men in all spheres of the State and of public life. |
| 4 | 29(1) | **Equality of Opportunity in Public Appointment:** There shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic. |
| 5 | 31 | **Right to Protection of Law:** To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law. |
| 6 | 32 | **Protection of Right to Life and Liberty:** No person shall be deprived of life or personal liberty save in accordance with law. |
| 7 | 33 | **Safeguard as to Arrest and Detention:** (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the rounds for such arrest, nor shall he be denied the right to consult and defended by a legal practitioner of his choice.<br>(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the Court of the magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate. |

[54] N.Y. Const. ART XIV, 1.
[55] Bustamante, Javier (September 2001).

| | | |
|---|---|---|
| 8 | 34 | **Prohibition as to forced labour:** All forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law. |
| 9 | 35 | **Protection in respect of trial and punishment:** (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than, or different from, that which might have been inflicted under the law in force at the time of the commission of the offence.<br>(2) No person shall be prosecuted and punished for the same offence more than once.<br>(3) Every person accused of a criminal offence shall have the right to a speedy and public trial by an independent and impartial Court or tribunal established by law.<br>(4) No person accused of any offence shall be compelled to be a witness against himself.<br>(5) No person shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. |
| 10 | 36 | **Freedom of Movement:** Subject to any reasonable restrictions imposed by law in the public interest, every citizen shall have the right to move freely throughout Bangladesh, to reside and settle in any place therein and to leave and re-enter Bangladesh. |
| 11 | 37 | **Freedom of Assembly:** Every citizen shall have the right to assemble and to participate in public meetings and processions peacefully and without arms, subject to any reasonable restrictions imposed by law in the interests of public order or public health. |
| 12 | 38 | **Freedom of Association:** Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interests of morality or public order. |
| 13 | 39 | **Freedom of thought and conscience and speech:** Freedom of thought and conscience is guaranteed. |
| 14 | 40 | **Freedom of profession or occupation:** Subject to any restrictions imposed by law, every citizen possessing such qualifications, if any, as may be prescribed by law in relation to his profession, occupation, trade or business shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business. |
| 15 | 41 | **Freedom of religion:** (1) Subject to law, public order and morality –<br>(a) every citizen has the right to profess, practice or propagate any religion;<br>(b) every religious community or denomination has the right to establish, maintain and manage its religious institutions.<br>(2) No person attending any educational institution shall be required to receive religious instruction, or to take part in or to attend any |

| | | |
|---|---|---|
| | | religious ceremony or worship, if that instruction, ceremony or worship relates to a religion other than his own. |
| 16 | 42 | **Rights to property:** Subject to any restrictions imposed by law, every citizen shall have the right to acquire, hold, transfer or otherwise dispose of property, and no property shall be compulsorily acquired, nationalized or requisitioned save by authority of law. |
| 17 | 43 | **Protection of home and correspondence:** Every citizen shall have the right, subject to any reasonable restrictions imposed by law in the interests of the security of the State, public order, public morality or public health –<br>(a) to be secured in his home against entry, search and seizure; and<br>(b) to the privacy of his correspondence and other means of communication. |
| 18 | 44 | **Enforcement of fundamental rights:** 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 is guaranteed. |

### 4.4 Constitutional Amendments and their impacts on Human Rights

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.

In 2022, Freedom House rated Bangladesh's human rights at 37 out 100.[56] Reforms were proposed in 2017 and included 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.[57]

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,[58] 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

[56] "Bangladesh: Freedom in the World 2022 Country Report".
[57] Rounaq Jahan. "The Parliament of Bangladesh: Challenges and way forward". The Daily Star (Opinion).
[58] https://state.gov.

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.[59]

According to Dr. Mizanur Rahman, the former chairman of the National Human Rights Commission, 70% of allegations of human rights violations are against law enforcement agencies (2015).[60] Torture and enforced disappearances are rampantly employed by Bangladeshi security forces. In recent years, free speech and media freedom have been repressed by the government through laws regulating newspapers, TV channels and the internet. Elected MPs in parliament lack voting freedoms. The future of elections is a concern among the population, with opposition parties alleging free and fair elections are not possible under the incumbent government. Local government elections in 2015 were marred by widespread allegations of vote rigging.[61] Bangladesh continues to make strides in its pursuit of labor rights, although the journey is still ongoing. The presence of active trade unions, a decline in the number of child laborers, and the establishment of labor courts and foundations exemplify the remarkable progress Bangladesh has made in safeguarding labor rights.[62]

According to Professor M Nazrul Islam Tamiji, the chairman of National Human Rights Society Bangladesh, we can ensure human rights through the speed of liberation war 1971.

Capital punishment remains legal in Bangladesh. Worker's rights are effected by a ban on trade unions in special economic zones. The government has often targeted trade union leaders with persecution.[63] The right to enjoy their own culture, to profess and practice and practice their own religion, and to use their own language in both private and publics spheres Article 2(1)[64].

[59] "Indigenous people demand constitutional recognition", The Daily Star.
[60] "Bangladesh's crisis of civil liberties and human rights". Development PLUS Cooperation.
[61] Al-Mahmood, Syed Zain (29 April 2015). "Bangladesh Local Elections Marred by Vote-Rigging Allegations". The Wall Street Journal.
[62] Elahi, Shafiqul. "Bangladesh making steady progress in ensuring labor rights". South Asia Monitor.
[63] "Bangladesh: Stop Persecuting Unions, Garment Workers". Human Rights Watch. 15 February 2017.
[64] "Minority rights". The Daily Star. 2016-11-23.

## Chapter-V
## Judicial Activism & Human Rights

### 5.1 Role of Judiciary in Protecting Human Rights

Judicial activisms or PIL is not defined directly in any statute, act or provision of Bangladesh Constitution. It has been interpreted by judges to consider the interest of public at large. However, in Bangladesh, the constitution has not only guaranteed fundamental rights and their judicial enforcement[65], but also sufficiently empowered the HCD of Supreme Court to enforce them through appropriate directions or order to any person or authority including public functionaries[66]. Besides, the Constitution of Bangladesh incorporates 23 rights (both civic and political called fundamental rights) in Part III, Articles 27-44. When these rights are violated by any public or private individual or authority, human right is violated. Article 8 of the UDHR enumerates that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law[67]. Similarly, for the protection of these fundamental human rights of the citizen, Article 44(1) of the Bangladesh Constitution guarantees the right to move the HCD of the Supreme Court (Mollah, 2008). By protecting the fundamental rights of the citizen, the judiciary ensures the human rights. The HCD of Bangladesh has also been given power to issue appropriate writs to remedy a legal wrong or to enforce legal obligation[68]. Thus, the judicial activism is permitted indirectly by the Constitution of the Republic of Bangladesh. Judicial activism or PIL basically introduced for poor, socially vulnerable, backward and minorities groups who have faced limited access to courts or failed to get judicial remedies due to lack of legal knowledge and consciousness.

The vulnerable people of the society are always affected by the stronger people of the society and are deprived from their rights of life, liberty, property and many other basic human rights. However, PIL is an approach where any conscious person, lawyer, lawyer association or human rights defender organizations can fight on behalf of aggrieved persons and even Supreme Court can take PIL case on the basis of newspaper reports issuing sou moto rule. Though judicial activism's role of judges has started more than 50 years ago in the USA and the UK, this concept has emerged as a rapidly rising and strong landmark concept of social action or PIL in the Indian subcontinent around 1970s. In the context of Bangladesh, PIL was introduced in

[65] Article 44(1) of Bangladesh Constitution.
[66] Article 101(2) of Bangladesh Constitution.
[67] Article 8 of the UDHR.
[68] Article 102(2) of Bangladesh Constitution.

1990s, but primarily it was rejected by the court due to lack of recognition of locas standi[69]. In Bangladesh, the case of Kazi Mukhlesur Rahman v. Bangladesh[70] was first denied by the High Court of Bangladesh on the ground of locus standi. Later, it was recognized by the Appellate Division of the Supreme Court in the case of Dr Mohiuddin Farooque v. Bangladesh & others[71]. Primarily this case was also denied by the HCD of Supreme Court (writ petition No. 998/94). In this case,

the Appellate Division of the Supreme Court of Bangladesh took a firm stand on the modern liberal trend of PIL, leaving aside the traditional view of locus standi. The Supreme Court decides to interpret the term "a person aggrieved" in a liberal mood and with a progressive attitude and thus widens the writ Jurisdiction of the High Court conferred on it by Article 102 of the Constitution of the People's Republic of Bangladesh. In Bangladesh, the Supreme Court plays the role of judicial activism through *suo moto* (by own initiatives) rule and by PIL. Suo moto means on its own motion or initiative, without external prompting or explicit demand. This is the where judiciary plays its proactive role by Supreme Court based on media reports or informed by any other ways. For instance, in Bangladesh, judicial activism started functioning for the first time in 1992, when HCD issued a *suo motu* (by own initiatives) rule in the case of State v. DC, Satkhira[72] on the basis of a newspaper report. On October 6, 1992, a news item under the caption "Sab Mamla Hote Abbahoity, Athocho Baro Batshor Jabod Jailey" (Released from all cases, yet has been kept in Jail for twelve years) was published in the Daily Ittefaq (Bengali daily newspaper). In this case, it was disclosed before the Court that Nazrul Islam was arrested by implicating him 12 criminal cases and he was detained for 11 years.

The HCD in its judgment declared that the detention of Nazrul Islam was illegal and without jurisdiction. The Court directed the Government to inquire as to whether any other person like Nazrul Islam was being held and the people responsible for such illegal detention were to be brought to book. Thus, the judiciary exercises the power of judicial activism and ensures rule of law through protecting individual rights on one hand and on the other hand it ensures accountability of the Government. The words "public interest" refers to the common interest which is essential for the wellbeing of people and the word "litigation" means a legal action following all procedures within, initiated in a court of law with a view to enforcing a right or seeking a remedy (Khan, 2009). Thus, the expression "public interest litigation" means those

[69] Mohiuddin Farooque v. Bangladesh & others.
[70] 26 DLR (AD) 44, 1974.
[71] FAP-20 case, Civil Appeal No. 24 of 1995.
[72] 45 DLR, 1993; 643-44.

litigations executed for the benefit of public or for amputation of some civic grievance. PIL refers to that activist jurisprudence that allows any person without being actually aggrieved to activate the judicial method to pursue a public cause or the rule of law, and allows the court to provide unorthodox remedies (Hoque, 2011). A PIL does not necessarily have to be introduced in the court of law by the aggrieved party. It can be initiated by any other private party one behalf of the injured person. Such injury may arise from breach of public duty or due to a violation of some provision of the Constitution. PIL is the device by which public participation in judicial review of administrative action is assured[73].

PIL is the power given to the public by courts through judicial activism[74]. However, the person filing the petition must prove to the satisfaction of the court that the petition is being filed for a public interest and not just as a frisky litigation by someone. Such cases may take place where the victim does not have the necessary resources to introduce litigation or his freedom to move court has been suppressed or encroached upon[75]. Judiciary in Bangladesh playing a vital role in protecting human rights in various ways such as by protecting the rights of under trial prisoners, controlling abuse of government power, upholding national interest, controlling illegal enforcement of extra judicial arbitration, punishment and killings and protection of minorities rights, etc. Some evidence and examples have been analyzed below.

### 5.2 Land Mark Cases

A landmark judgment of HCD first delivered for some foreign prisoners in the case of Dr Faustina Pereira v. The State [2001][76]. In this case, HCD issued a "*suo moto*" rule in pursuance of a letter by an advocate of Supreme Court to the Chief Justice of Bangladesh, drawing his attention to a news report that 29 foreign nationals had been languishing in jail for about five years even after the expiry of their sentences. The Court punctually sought a report on similar situations from the Inspector General of Prisons, and following a hearing not only released those foreign prisoners but also directed the relevant authority to take steps for the release of other foreign prisoners across the country and to submit to the Court a progress report. Further, the court appreciably formulated guidelines for the Government departments to follow this method when handling similar situations in the future. Later, in the case of Bangladesh Legal Aid Service Trust (BLAST) v. Bangladesh [2005], the HCD of the Supreme Court gave a

[73] www.ngosindia.com/resources/pil.php.
[74] www.ngosindia.com/resources/pil.php.
[75] http://en.wikipedia.org/wiki
[76] 34. 53, DLR; 2001.

historic verdict in August 3, 2004, with a view to protecting rights of over hundreds of women and children prisons who were under trial for indefinite times in various jails in Bangladesh. In this case, the court issued a rule based on a news

report published by the "Daily Star" on December 23, 2003, entitled "behind bars, sans trial for years: 155 Dhaka Central Jail inmates languish with no witness to pin them down". In the case, it has been found that some juvenile and women prisoners were in custody for unlimited times (some 1-11 years)[77]. This was a grave violation of the petitioner's fundamental rights to personal liberty and to a speedy trial as guaranteed by Articles 31, 32 and 35(3) of the Constitution. The Court issued orders against the Government to ensure the release of cases against several thousand under trial prisoners languishing in jails pending their trials for years. The court also added:

It is expected that this petitioner and National legal Aid and others will come forward to solve the problem with maximum promptitude and expedition by implementing the aforesaid directions to make fundamental right of the prisoners meaningful. It is noted that children are entitled to trial before the Juvenile Courts and positive step should have been made to make their trial in accordance with of Juvenile Court and not to be tried jointly with the adults. The Court also directed to send copy of this judgment to be communicated to the Office of the Attorney General and the Secretary of Prime Minister Office for necessary action.

These decisions of court illustrated that judiciary is safeguarding individual rights by combating violation of prisons rights and checking against arbitrary use of executive power. Similarly, violation fundamental rights of citizens are also violation of human rights. In the case, of Ain O Salish Kendro (ASK) Vs Bangladesh [1999][78], the court gave a historic verdict with a view to protecting fundamental rights of poor slum dwellers from being evicted suddenly without first being given notice as a matter of constitutional propriety. The Court also gave directions to the Government for providing alternative shelters. In many other PIL cases, judiciary directed the Government to protect individual rights and uphold the socially vulnerable sections. Thus, judicial activism ensures that human rights can be protected through an impartial and fair justice system and the power of state are accountable for their actions.

[77] Writ Petition No. 7578 of 2003, 57 DLR; 2005, pp. 11-14.
[78] 19 (1999) BLD; 488.

## 5.3 Judicial Review Vs Parliamentary Sovereignty

Judicial review can be understood as the power of the courts to declare the decisions or actions of a public body or another arm of government unlawful or unconstitutional. Parliamentary sovereignty is a fundamental principle of the British legal system, which gives the parliament powers to make and unmake laws it wishes.

With such powers, one would wonder if judicial review is applicable in the UK. Can the courts, for example, declare that a given act or decision of the parliament is unlawful? Get yourself an experienced law tutor in London for you to understand the position of judicial review in England and Wales.

### Parliamentary Sovereignty

According to this principle, the parliament has the power enact or repeal any law. Besides, no one, including the courts, has the power to set aside or question the decisions of parliament. Therefore, based on the principle of parliamentary sovereignty, the judiciary is supposed to apply the laws as they are, and it is not supposed to engage itself in the law-making process. However, although the principle of parliamentary sovereignty is still an integral component of the British legal system, things have changed significantly in the recent past due to the rising popularity of the concept of judicial activism, the need to check the abuse of power, and the need to safeguard individuals' rights.

### Human Rights Act, 1998

This is the law that paved the way for judicial review in the UK. It was passed in accordance with The European Convention for the Protection of Human Rights and Fundamental Freedoms. Although the law does not give courts the power to set aside acts of parliament, it allowed them to interpret any law in line with the provisions of the convention. If any act of parliament is incompatible with the convention, the court can issue a formal declaration to that effect. After the court has made such a declaration, it will be up to the parliament or government to put matters right.

# Chapter-VI
# Protection of Human Rights through Ensuring Good Governance in Bangladesh

## 6.1 Nexus between Good Governance and Human Rights

The nexus between good governance and human rights is significant. Hence, the combination of good governance and human rights protection is necessary to attain sustainable development for a state. Good governance practice protects human rights, and human rights strengthen good governance. Importantly, protection of human rights requires a conducive environment which depends on the practice of good governance.

### The Core Concept of Good Governance

There is no exhaustive definition of good governance. Depending on the context and the overriding objectives sought, good governance has been said at various times to encompass: full respect towards human rights, rule of law, effective participation, multi-actor partnerships, political pluralism, transparency, accountability, efficient public sector, political empowerment, equity, sustainability, and values that foster responsibility, solidarity and tolerance.[79] Simply, good governance means the due process making and implementing best possible decision.[80] The constituents of good governance are accountability, transparency, rule of law, responsiveness, equitability, effectiveness, and participation.[81]

### The Core Concept of Human Rights

Human rights are interrelated, interdependent and indivisible rights inherent to all human beings, irrespective of their nationality, residency, gender, ethnicity, color, religion, language, or status. Human rights are universally guaranteed by laws in the form of treaties, customary international law, general principles of international law and other pertinent sources. Generally, international human rights law lays some obligations upon governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups. The salient features of human rights are universality, inalienability, interdependence, indivisibility, equality, non-discrimination, and entailment of both rights and obligations. States assume obligations and duties under international law to respect, protect and fulfil human rights. Obligation to respect means that states must refrain

[79] OHCHR
[80] Good Governance Guide
[81] OHCHR, note 1.

from interfering with or curtailing the enjoyment of human rights. Moreover, obligation to protect requires states to Protection of Human Rights through Ensuring Good Governance in Bangladesh safeguard individuals and groups against human rights violation. Whereas, obligation to fulfil means that states must take positive action to facilitate the enjoyment of basic human rights. At the individual level, while we are entitled to human rights, we should respect the human rights of others.

**Protection of Human Rights: Role of Good Governance**

Good governance plays a vital role in protecting human rights. Practice of good governance drives a government to take correct decisions at the right time enabling the state to run properly. Besides, good governance obviates unethical practices in the decision-making sector by preventing corruption. Good governance relies a lot upon legal framework. It also relies on political, managerial and administrative processes.[82] On the other hand, protection of human rights also depends on these issues. Therefore, good governance and human rights are reinforcing. The true test of good governance is the degree to which it delivers upon the promise of human rights: civil, cultural, economic, political and social rights. As protection of human rights is the threshold of good governance, linkage between them cannot be doubted.

**6.2 Legal Regime of Good Governance and Human Rights**

Bangladesh fulfills the prime condition for practicing good governance by maintaining democracy. Bangladesh is continuously striving to invigorate the practice of good governance. Thus, respect for human rights among the citizens is building up gradually. For these to be sustained, legal framework needs to be impregnable.

**Laws relating to Good Governance in Bangladesh**

The practice of good governance reduces corruption and inspires the voice of the most vulnerable part of the society.[83] Only effective legal regime upholds good governance. The Constitution of Bangladesh adopts nationalism, socialism, democracy and secularism as the fundamental principles of state policy. It ensures effective participation of the people through their elected representatives in all administrative levels. Existence of the office of Ombudsman is theoretically there also. These articles can safeguard the practice of good governance in

[82] www.unescap.org
[83] Mahmudul Islam, Constitutional Law of Bangladesh Constitution of Bangladesh.

decision-making level. It is submitted that the regime of constitutional law relating to good governance is firm. Other relevant statutes regarding good governance are Durneeti Daman Commission Ain 2004 and Tathya Adhikar Ain 2009. The first of these Acts is for the prevention of corruption and the second one is related to right to information. Further, the Supreme Court of Bangladesh is provided with the power of judicial review which is pivotal to ascertain rule of law. It is a basic feature of our Constitution and by the decision in Anwar Hussain Chowdhury it cannot be curtailed even by amendment of the Constitution.[84] Therefore, the legal regime is versatile enough to bolster the components of good governance.

**Laws relating to the Protection of Human Rights in Bangladesh**

The Constitution is the supreme law of Bangladesh and any other law inconsistent with it shall be void to the extent of such inconsistency. The Constitution discusses about human rights in many provisions. The socio-economic and cultural rights have been stated in Part II, while the civil and political rights in Part III.

The fundamental principles of state policy are not judicially enforceable, but the fundamental rights are. The concept of fundamental rights is less-extensive as it engulfs merely civil and political rights. The civil and political rights mentioned in the Constitution of Bangladesh are: equity before law, discrimination on grounds of religion, etc., equality of opportunity in public employment, prohibition of foreign titles, etc., right to protection of law, protection of right to life and personal liberty, safeguards as to arrest and detention, prohibition of forced labor, protection in respect of trial and punishment, freedom of movement, freedom of assembly, freedom Protection of Human Rights through Ensuring Good Governance in Bangladesh of association, freedom of thought and conscience, and of speech, freedom of profession or occupation, freedom of religion, rights to property, protection of home and correspondence, and enforcement of fundamental rights. Six of these rights may be curtailed during the continuance of emergency. These are the rights mentioned in articles 36, 37, 38, 39, 40 and 42.[85] It is an impediment to the protection of human rights in Bangladesh. Conversely, the Constitution confers power on the High Court Division of the Supreme Court of Bangladesh to enforce fundamental rights. Also, it is provided with the power of judicial review in non-fundamental right matters.[86] As the Constitution itself guarantees the protection of fundamental rights, it is evident that the legal regime is powerful. The other enactments relevant to the

[84] M Jashim Ali Chowdhury, An Introduction to the Constitutional Law of Bangladesh.
[85] Islam, note 19, pp 438, 439.
[86] http://bdlaws.minlaw.gov.bd

defense of human rights make this legal regime even stronger. There are some obstacles which are hampering the full-fledged practice of good governance in Bangladesh. The noted impediments are as follows:

- The weakness of the Election Commission in Bangladesh is a major hindrance. Upon every election, the international community questions its fairness. Unfair elections lead to political instability and eventually hamper or deteriorate good governance practice.
- The dormant Opposition in the Parliament is another concern. For their inactivity, the government lacks accountability regarding policy-making. Again, article 70(b) of our Constitution is another constraint against the practice of good governance. MPs of the ruling party cannot condemn any wrong policy taken by the government for the provisions of this article.
- Judicial independence is not absolute in Bangladesh. The Constitution reflects on the separation of judiciary from the executive organs of the state. Again, the Constitution avers that all persons employed in the judicial service and all magistrates shall be independent in the exercise of their judicial functions. Interestingly, the appointments in the judicial service are made by the President. Further, the control and discipline of the persons employed in the judicial service is exercised by the President in consultation with the Supreme Court. These provisions hinder absolute independence of judiciary, which ultimately restraints good governance.
- Bureaucracy is not free from corruption in Bangladesh. Axiomatically, a fair and pro-people bureaucracy ensures good governance in all the levels of decision-making. But the presence of corruption denigrates everything. Corruption makes decision-making process porous and contaminates good governance.

Infirm local government is another restraint. Many projects of the government turn futile because of the lack of proficiency in local government and it hinders the practice of good governance. 48 Article 70 of the Constitution of Bangladesh states, “A person elected as a member of Parliament at an election at which he was nominated as a candidate by a political party shall vacate his seat if he –

(a) Resigns from that party; or

(b) Votes in parliament against that party; But shall not thereby be disqualified for subsequent election as a Member of Parliament”. Protection of Human Rights through Ensuring Good Governance in Bangladesh.

In Bangladesh, the press and the electronic media lack strength and freedom. Sometimes they cling to yellow journalism for their own benefit which debilitates their efficacy. For these, the government lacks accountability and transparency to the citizens.

The prospect of practicing good governance in Bangladesh is not negligible either. Bangladesh is beefing up its democracy day by day and it is significant. Again, the increasing rate of literacy is bolstering the strength of democracy. As Bangladesh is doing very good in women empowerment, gender discrimination is declining. If these continue, Bangladesh will surely attain good governance in its truest sense.

### 6.3 Human Rights Legislation in Bangladesh

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[87]. 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"[88]. International human rights instruments corroborated this by requiring that everyone should be given a fair trial by an independent and impartial tribunal[89], thus obliging the respective signatory states to implement this and other standards inherent in those conventions into their domestic legislation. 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. 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[90].

[87] The Universal Declaration on Human Rights, Montreal, December 7, 8, 9, 1998.
[88] The Preamble of the UN Charter.
[89] 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.
[90] The Preamble of the UDHR, para.1, 2, 3, 4.

**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:

**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[91] and Part III[92]. 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."[93]

The ***writ***[94] 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'***[95]. Pursuant to Article 102 it is possible to enforce the fundamental rights of the aggrieved person. The Constitution provides the Supreme Court with review[96] 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 proper and therefore it has created public dissatisfaction and mistrust. ***MD. Abdul Ghone***[97] 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”.

[91] Fundamental Principle of State Policy, (Article- 8 to 25).
[92] Fundamental Rights (Article- 26 to 47).
[93] Article 44 (1) of The Constitution of Peoples Republic of Bangladesh.
[94] Article 102 of The Constitution of Peoples Republic of Bangladesh.
[95] Zamindar Ahmed vs. Government of Bangladesh, 34 DLR, 1977;
[96] Article 105 of The Constitution of Peoples Republic of Bangladesh.
[97] Advocate, Supreme Court of Bangladesh and Additional Public Prosecutor, Dhaka Metro Session Judge & Special Tribunal Courts, Dhaka.

**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***,[98] 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 is obviously an area of potential where the Supreme Court can act in order to protect human rights.

**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

[98] Advocate Supreme Court and Assistant Attorney General, Bangladesh.

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*[99]."

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:

**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.[100] 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.[101]

The Bangladesh Supreme Court acts proactively to protect the rights of foreign prisoners. 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 far-reaching observations in a case brought within its epistolary jurisdiction. This case ***Dr. Faustina Pereira v The State***[102] 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

[99] Per Bimalendu Bikash Roy Chowdhury, J., 21 BLD (AD) (2001) 69.
[100] Article 7; Declaration of the Rights of Man ,1789
[101] Article 8; Declaration of the Rights of Man ,1789
[102] 53 DLR (2001) 414 and 21 BLD (HCD) (2001) 499.

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.

**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[103]. The threshold of the Rio Declaration was the recognition of right to development[104] and more importantly sustainable development. With the adoption of Rio, the global community committed to integrate environmental issues into mainstream economic and social policy[105] and reduce and eliminate unsustainable patters of production and consumption[106].

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 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[107];*** 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.

[103] Principle 1 of the Rio Declaration on Environment and Development
[104] ibid, Principle 3
[105] ibid, Principle 4
[106] ibid, Principle 8
[107] 48 DLR, 1996, p. 438

**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.[108]

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.[109] 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.[110]

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.

**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.

[108] http://www.who.int

[109] Article 25 (1); The Universal Declaration of Human Rights
[110] Article 25 (2); The Universal Declaration of Human Rights

**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.

**6.4 Role of National Human Rights Commission (NHR)**

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. 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

## 6.5 International Treaties and their Implementation

According to the report in the year of 2002, Strengthening the United Nations: an agenda for further change, the UN Secretary-General identifies further modernization of the treaty system as a key element in the United Nations goal of promoting and protecting human rights. He has called on the human rights treaty bodies to consider two measures: first, to craft a more coordinated approach to their activities and standardize their varied reporting requirements; and second, to allow each State to produce a single report summarizing its adherence to the full range of human rights treaties to which it is a party. The High Commissioner for Human Rights has been requested to undertake consultations on new streamlined reporting procedures, and submit his recommendations to the Secretary-General by September 2003. The views of the treaty bodies, States parties, non-governmental organizations and other partners within the United Nations system are being sought.

The setting of legal standards in the field of human rights and the establishment of mechanisms to monitor those standards has been one the primary means of achieving this aim. The Committee on the Elimination of Racial Discrimination (CERD) was the first treaty body, established in 1969, and the system has grown to include six treaty bodies. As of 2004 a seventh treaty body will begin operation to monitor the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC). As the system has grown, it has confronted challenges. These include delays in submission and/or consideration of reports, non-reporting, and duplication of reporting requirements among treaty bodies. Improving the effectiveness of the human rights treaty system has been an ongoing interest of individual treaty bodies, the meeting of chairpersons of human rights treaty bodies, the Commission on Human Rights and the General Assembly. These issues have also been the subject of the Inter-Committee Meeting.

## Chapter-VII
## Contravention of Human Rights in Bangladesh

### 7.1 Violation of Human Rights in Bangladesh

The overall human rights situation of Bangladesh gave 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 number of international and national legal frameworks to promote and protect human rights and fundamental freedom of all citizens.[111]

### 7.2 Policy of Human Rights in Bangladesh

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

There are a number 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:

[111] Voice of Youth Human Rights

**Extra judicial killing**

The "extra judicial killing" is a severe 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 continuing 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.[112]

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

[112] http://www.scribd.com

**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.

**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, 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.

**Border Killings**

Border killing by the BSF is another miserable issue for the border lying people in Bangladesh. he 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 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.

**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 months, women and girls were victimized by 29 acid violence, 104 dowry related violence, 127 rapes and 203 sexual harassments.

### 7.3 Violation of Human Rights and the Liability of Government

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, 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."

**Right to Life:** Everyone has the right to life, liberty and security of person.[113] 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",[114] has also been totally flouted. Those rights are also granted by our constitution as our fundamental rights.[115]

**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

[113] Article 3 of the UDHR.
[114] Article 5 of the UDHR.
[115] Article 32 of the Constitution of Peoples Republic of Bangladesh.

had raped several non-women."[116] The UDHR and also The Constitution of Bangladesh declare "No one shall be subjected to arbitrary arrest and detained." 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.

### 7.4 Child Rights violation under the Human Rights in Bangladesh

There are 20 million of them are under the age of 5 and about 73% of the child live in the village/ rural areas and 27% in urban areas. Bangladesh is a very densely populated country in southern Asia. It has a small country but its population is about 160 million. But the half of the population of Bangladesh are under the age of 18 and are considered children. However, one-third of these children spend their life below the international poverty line. The violation of child rights is a common affair in Bangladesh. The children have basic rights to education, health and nutrition, a balanced diet, protection, safe water, participation, recreation, sanitation, and hygiene. Most of the children of Bangladesh are deprived of these basic rights.

The government of Bangladesh with UNICEF has taken many steps to school for children and decrease child labor and abuses. Here an experiment has been discussed the aspect of a child's right to create a child-friendly environment in Bangladesh against any violation. In addition, I talk about child rights which need children, boys/girls, in Bangladesh. Secondly, the international instrument that rights and rules then how many various ways violate the Bangladeshi child rights. So, the upholds the present situation of the Bangladeshi child rights violation and fundaments rights. There are different statistics between 2001 to 2021 in Bangladesh after I said some the strong recommendations, on how to recover the child right violation in Bangladesh.

[116] Advocate Md. Kamal Parvaze Ain o Salish Kendra (ASK)

## Chapter-VIII
## Concluding Part

### 8.1 Recommendations:

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

## 8.2 Conclusion

The Constitution of Bangladesh is the Supreme law of the land, which contains provisions regarding Human Rights in different forms. Constitutional inclusion of Human Rights standards also provides a focus for discussing those issues and their implications within the political system.

Human Rights Protection of Bangladesh law needs urgent attention. It has been hijacked by certain special interest groups, notably convicted prisoners (especially killers), illegal immigrants and terrorist suspects. Human rights protection has not yet become the absolute priority of governmental policy and the activity of governmental authorities. So far, in the country there is no adequate understanding and coordination of the activities of all branches of authority with regard to the security and protection of human rights and freedoms. The recommendations and measures suggested in the National Plan are aimed at the improvement of legislative, institutional, and control mechanisms in the sphere of human rights. It is necessary to use more fully the law-enforcement potential of institutions of civil society, to give detailed attention to the role of legal education and the formation of a socially active individual able to protect his rights and to require of other participants of legal relationships (first of all of governmental authorities and their officials) the adequate attitude toward his rights and obligations. Implementation of the measures of the National Plan will contribute to the cultivation of a developed human rights culture in society and to the development of effective methods of interaction between governmental authorities. Our judiciary should take immediate action for the enforcement of the human rights. The insertion of different Human Rights provision in to the Constitution of Bangladesh was not a unique event in the context of the development of Human Rights.

## Bibliography

### Books


- Dr. Muhammad Ekramul Haque, Bangladesh Constitutional Framework and Human Rights.
- Khan, Borhan Uddin, Fifty years of Universal Declaration of Human Rights, (Dhaka: Ministry of Law, Justice and Parliamentary Affairs, 1998).
- Davidson, Scott, Human Rights (Buckingham: Open University Press, 1993).
- Kapoor, S.K., International Law and Human Rights, 12th ed. (Allahabad, Central Law Agency, 2003).
- Rehman, Javaid, International Human Rights Law (England: Pearson Education Limited, 2003).
- Harris, D.J., The European Social Charter (Charlottesville: University Press of Virginia, 1984).
- Barrister Md. Abdul Halim, Constitution, Constitutional Law and Politics: Bangladesh Perspective, 3rd ed. (Dhaka: CCB Foundation, 2006).


### Cases


- Tayazuddin and another v. The State, 21(2001) BLD 503.
- Bangladesh National Women Lawyers v. Bangladesh, Writ Petition No. 5916 of 2008.
- H.M. Ershad v. Bangladesh, 21(2001) BLD AD 69.
- Professor Najrul Islam and Others V. Government of People's Republic of Bangladesh 52(2000) DLR, AD 413
- Ain O salish kendra (ASK) Ors. V. Government of Bangladesh & ors. 19(1999) BLD, AD 488.
- Golder V. United Kingdom 50(1975) ALJ, AD 229-245


### Journals


- Glendon, Mary Ann, „The Rule of Law in The Universal Declaration of Human Rights, Northwestern University Journal of International Human Rights, vol. 2 (April 2004).
- Humphrey, J.P, „The International Law of Human Rights in the Middle Twentieth Century", R. B. Lillach and F. C. Newman eds., International Human Rights Problems of Law and Policy (Boston, Little, Brown and Co., 1973).


### Statutes


- The United Nation Charter.
- Universal Declaration of Human Rights.
- The Constitution of The People's Republic of Bangladesh