

## **The Core Legal Instruments to Ensure Human Rights in Bangladesh: An Overview**

Bulbul Ahmed<sup>1</sup>

**Abstract:** Human rights are big concern since World war II. Human rights are establishing by the United Nations and all the members of UN have to follow the agreement they signed. Bangladesh is developing country which was born in the time of cold war. In Bangladesh, citizens have Human rights and legal rights according to the constitutions. But people are not aware of their rights. There are few legal instruments which are crucial for saving any kind of human rights. In this paper, basically, it has attempted to find out the core instruments which are legally framed and covering the state obligation part. This paper is basically followed on qualitative research and based on secondary sources. The outcomes of this paper is in extended discussion through the concerned parts of national and international instruments which are also accompanied by different issues and obligation. Human rights evolved with the demands of the time and necessity for the betterment of humankind.

**Key Words:** Human Rights, Legal Instruments, Bangladesh, International Declarations, Constitution, Policy.

Date of Submission: 13-07-2019

Date of acceptance: 29-07-2019

### **I. INTRODUCTION**

Human Rights are important components of human civilization. It is all about giving freedom, security and rights to live a peaceful life. Until we cannot ensure human rights all way, we cannot claim ourselves success enough. It is as important that a society or community can be said democratic when all the citizens provide by all human rights when society is going through the crisis of violation of human rights. The term 'Human Rights' is a worldwide phase for every single person living on this earth. Human rights are those rights that define our identity, reality, capability and all. The fast required thing of every single person is to get some basic human rights to live on. Human rights are made based on some principles of respect for each and every individual. Their fundamental assumption is each person is a moral and very rational being and they are supposed to be treated with proper dignity and respect. This is why these are known as human rights as these are universal.

With the Universal Declaration of Human Rights in 1948 the practices of human rights developed in different countries, in some places it was accepted and others were still had confusion about the definition of human rights. Countries like US & China were in great dilemma. The moral and political two traditions try to understand human rights philosophically. Human rights are the basic rights for all binding people with laws, where a state should protect the rights of citizens by interfering in other country when human rights violate (Gusman, 2015).

Human being is a creation that inherits right to live and prosper. For this purpose, many other rights are connected with human being. For instance, security, equality, equity, participation, freedom and so forth. Human rights are certain principles and norms that believed to be justified to each individuals. But, it is a matter of regret that many people around the world are suffering from violation of human rights. Government alone cannot take care of every aspects of human rights. Moreover, policies and administration also can violate human rights. Besides world has become globalized. Human rights perspective has expanded toward countries to countries. Many non-governmental organizations emerge to fulfil the gap and protect human rights.

To protect and for facilitating the term and practices of human rights there are certain legal instrument which are officially protected by the state. Few of them are domestic instruments and some others ratified international instruments.

---

<sup>1</sup>Bulbul Ahmed, Lecturer, Department of International Relations, Faculty of Security and Strategic Studies, Bangladesh University of Professionals(BUP), [bandhon.du@gmail.com](mailto:bandhon.du@gmail.com), [bulbul.ahmed@bup.edu.bd](mailto:bulbul.ahmed@bup.edu.bd)

Bangladesh is a small country which is still struggling in developing stage. Since the independence, anarchy and political unrest is very common in this country. Moreover, gender discrimination, illiteracy in rural areas, minority rights and many others are inherited with Bangladesh Human Rights. Bangladesh constitution provides legal rights for civil people and organizations. These law makes an easy field for the human rights workers. The constitution comprises of many articles including rights of dignity, freedom of expression, freedom of thought, election, right to life and personal liberty and many others.

The National Human Rights Commission reestablished by the NHRC Act 2009 in light of the 'Paris Principles' as an autonomy body to work against human rights violations and also committed to establishing the rights of the vulnerable people. It also plays its role by acting as an honest actor in promoting human rights. The key functions of NHRC is raising awareness and human rights education, policy advocacy, monitoring and investigation etc. This body specially treats child, women, and the old people cases as their priority. Most importantly this is a state organization not a governmental organization, so it's free from government influence and works for enforcement of law for justice, in contrary ensuring exemplary punishment. However, NHRC team comprised of full of such people are so much dedicated and honest with their profession to protect the mankind and work against human rights violations.

After witnessing the two most devastated World Wars and the violation of, The Universal Declaration of Human Rights (UDHR) was a milestone document in the history of human rights, by the United Nations General Assembly in Paris on 10 December 1948. As well as for the citizens of Bangladesh, the establishment of The National Human Rights Commission was a great achievement. An overview on National Human Rights Commission (NHRC) published in 2013 said that it is an autonomous body came to force in 2007, mainly based on NHCR Act 2009 with the aim to ensure fundamental rights of the citizens against raising violations. Today it is contributing human dignity and integrity as one of the basis of holding democracy also respects International laws on human right, while it also committed with those International Conventions and treaties ratified by the People's Republic of Bangladesh. Creating a culture of practicing Human Rights by enlighten the people through its activities have become the big concern when the people engaging with this Commission have consider rights, peace & security of the citizens is foremost to protect the mankind.

## **II. RESEARCH METHODOLOGY**

The method of this study in qualitative in nature. This research is based on secondary data. The paper has followed by a systematic procedure from the selection of the different domestic and international legal platforms to prepare the analysis and research outcomes. This paper is mainly focusing on the methodology and role of the institutions, powers and functions of the institutions, how they work, what is the procedure of their works to policy formulations and implementation of that policies in the grassroots level for ensuring human rights staying in the arena of legal framework.

## **III. OBJECTIVES**

The objective of this research is to identify both the domestic and global areas of legal instruments which are concerned to the protection of human rights. To meet this broader objective, some specific objectives addressed by this study are articulated below-

1. To identify the major constitutional provisions, laws, policies which are related to human rights in Bangladesh.
2. To explore the nature and extent of international declarations, treaties, conventions or any kind of agreements which are directly and indirectly related to human rights.
3. To find out the overall effectiveness of that legal instruments in Bangladesh
4. To find out the challenges of implementing the core legal instruments in Bangladesh.

## **IV. LITERATURE REVIEW**

Some existing works of literature including articles, journals, books, reports and some other important publications are reviewed here to realize the current position of scholars in this field of study and to find the research gap in a very scientific way. Plenty of scholarly works and paper-based evidences prove the common scenario of human rights in Bangladesh and the contexts of different national and international legal instruments in protecting human rights in Bangladesh.

Kabir (2016)discussed about the historical background of National Human Rights Commission establishment. After a long discussion for formulated a body that will human rights of citizens from violation, in 1996 an agreement was signed between government and United Nations Development Program. A project Institutional Development of Human Rights in Bangladesh (IDHRB) was taken by the government during 1995 but ongoing political crisis made it delayed. This institution started under the constitution of Bangladesh and financed by UNDP. The NHRC for Bangladesh was proposed by this IDHRB project. Later it became an effective consolation.

Taru, F. (2016) discussed Article 27 of the Constitution of Bangladesh guarantees that “all citizens are equal before law and are entitled to equal protection of law.” In her review of different articles of Bangladesh constitution, fundamental rights and different social rights clearly reflected in very fruitful manner. the author mentioned about the implication of the concerned articles in the spheres of citizen’s life. Enforcement of human rights laws are mentioned in this study which has explained very effective and functional nature. At the end of the study, the possible roles of government, opposition parties and the role of civil society were attempted to addressed.

A Study of United Nations Human Rights Office of the Commissioner (UNHRC) explained the principles of Paris Agreement on National Human Rights Institutions those were adopted during the general assembly of UN in 1993. The main objective was to provide an opportunity and ensuring the importance of NHRIs. NHRIs like bridge between civil societies and government. Institutions must comply with Paris Principles, when they are playing the advocacy role throughout human rights violation. Today NHRIs actively engaging with UN human rights mechanisms.

Another report from 2014 introduced the National Human Rights Commission of Bangladesh which is an independent advocacy institution for promoting and protecting human rights throughout the country. Its mandate comes from the Constitution of Bangladesh. The basic human rights are covered by division 2 of constitution, which promotes right to life, liberty, equality and dignity. The commission enjoys the power of civil court. But it has also some bindings in case of free activities.

### **The core legal instruments for ensuring human rights**

In order to analyze the human rights issues and instruments, it is important to understand what human rights are. Human Rights are the rights which a human being possesses for being a Human. It consists of legal rights, fundamental rights and also some other rights. Some of the Human Rights are: Right to life, right to property, right to get education, rights for freedom of speech, right to form association, right to movement etc. It has been found that all of these rights were violated systematically by different groups during different time.

To protect human rights both government and different organizations, especially, civil society have been working in Bangladesh collectively. In measuring and observing their working field it is very clear that both are following few legal provisions and instruments. Different human rights activists from harassment and litigation by the government and others, the UN adopted a Declaration on Human Rights Defenders in 1998. The instrument includes importance of guidelines, although it is not legally binding yet will assist to increase the scope of activities and help to develop the defence of human rights activists. Thus, the administration as per Article 8 of the Declaration need to guarantee Right to have successful access, on a non-prejudicial premise, to take an interest in the legislature and in the direct of open undertakings and the privilege to submit feedback and proposition for enhancing their working. Article 9 stated that everyone has the right to benefit from an effective remedy and to be protected in the event of violation of those rights; to this end everyone whose rights is allegedly violated has the right to complain before an independent, impartial and competent judicial authority established by law (including the right to a public hearing, due redress and compensation and enforcement).

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

Article 27 ensures equality before law without any discrimination

Article 28 provides all rights without discriminating as race, sex, culture, religion etc.

Few rights which are clearly guaranteed by the constitution of Bangladesh:

- I. Right to equality (articles 27-30)
- II. Right to protection of law(articles 31-32)
- III. Safeguard as to arrest and detention(article33)
- IV. Protection against forced labor (article 34)
- V. Protection in respect of trial and punishment(article 35)
- VI. Right to freedom(articles 36-41)
- VII. Right to property(article 42)
- VIII. Right to enforce fundamental rights(article 44)

Part 3 discuss about the fundamental rights and freedom for all human being such as freedom of movement, freedom of association, freedom of assembly, freedom of property, freedom of religion, free choice of employment and basic fundamental needs. Bangladesh has also alignment with few international instruments. Established by the National Human Rights Commission Act, 2009 happened with Bangladesh’s commitment to international human rights law, the Commission serves as a mechanism for the enrichment of the realization of human rights. Bangladesh has ratified eight out of nine core human rights treaties. As a result of such ratification, Bangladesh entails obligation under international law to respect, protect and fulfil human rights enumerated in those treaties. Under the human rights treaties, Bangladesh has obligation to submit regular

reports to the relevant treaty bodies on measures taken by it regarding implementation of treaties. International Covenant on Civil and Political Rights (ICCPR), 1966 mainly deals with implementation of civil and political rights in national jurisdiction. Bangladesh has acceded to the ICCPR in 2000 and accordingly, Bangladesh has obligation to submit regular reports to the Human Rights Committee. As a part of this obligation, the Government of Bangladesh has submitted initial report to the Human Rights Committee under article 40 of the ICCPR, 1966 on 19 June 2015.

The convention related to human rights that Bangladesh has signed are -

- I. Geneva Conventions ,1949
- II. International Convention on the Elimination of All Forms of Racial Discrimination ,1965
- III. International Covenant on Economic, Social and Cultural Rights ,1966
- IV. International Covenant on Civil and Political Rights ,1966
- V. Convention on the Elimination of All Forms of Discrimination against Women, 1979
- VI. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ,1984
- VII. Convention on the Rights of the Child, 1989
- VIII. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ,1990
- IX. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts,2000

### **Challenges**

Challenges in promoting human rights in the process of human rights that is part of the state intervention through using some fundamental rights in our national policy. In that continuing process there are challenging in the human rights Bangladesh that is a lack of good governance, education and socio-economic development and environment issue, refugees and migration problem, child labor and children rights. Accordingly, some challenges are faced by our political parties and international organization to create pressure on the certain rights. Now the challenges are given below: 1) Local politics and political parties they are not concerning about the rights to people and sometimes they were violation the law in ignorance. 2) Child Rights such as health issues, child marriage etc. were not concerning the guardian in majority cases. 3) Child labor banned in the international law but thereafter there were not maintaining in every country. 4) Good governance was a main pillar to maintain balance relations in the promotion in human rights. 5) Sometimes policy should be violation against the social rules and regulations 6) Applying the law not to proper way but followed by a corruption individual interest.

In that type of challenges to promote human rights in Bangladesh. There are some binding and some NGOs are working the human rights strictly maintain the rights to people and citizen in national level.

### **V. CONCLUSION**

Protection and promotion of Human rights within state is not only the responsibility of the government. Since violation of human rights occur on every stages and circles of the society, hence concern and awareness among the people from all levels can only ensure sustainable end to such violation. Their scopes of protecting specific rights should be broadened and more concentration should be given on effective awareness building among people which is key to human rights promotion. Apart from that, ensuring more integrated collaboration with other partner organizations, government agencies and locally operating international organizations in such undertakings will ensure wider implementation of the goals of human rights promotion programs. In certain instances, human rights activism might prove counterproductive. For example, in Bangladesh the legal rights movements in support of child labor, female labor and bonded labor resulted in the enactment of beneficial legislation. In these days, the government is very cautious about the implementation of different international declaration, like Universal Declaration on Human Rights (UDHR), The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) etc.

### **REFERENCE**

- [1]. Arat, Z, F.(2003). Democracy and human rights in developing countries, iUniverse
- [2]. Asia Pacific Human Rights Information Centre (2018), A National Human Rights Commission for Bangladesh, <https://www.hurights.or.jp/archives/focus/section2/1999/12/a-national-human-rights-commission-for-bangladesh.html>
- [3]. Azad, E. (2018). Protecting the rights of migrant workers. [online] The Daily Star. Available at: <https://www.thedailystar.net/law-our-rights/rights-advocacy/protecting-the-rights-migrant-workers-101329> [Accessed 4 Oct. 2018].

- [4]. Azad, E. (2018). NHRC Act needs to be reevaluated. [online] The Daily Star. Available at: <https://www.thedailystar.net/law-our-rights/law-interview/nhrc-act-needs-be-reevaluated-1329358> [Accessed 3 Oct. 2018].
- [5]. Bangladesh.savethechildren.net. (2018). Working together with the National Human Rights Commission to transform children's rights into realities | Bangladesh | Save the Children. [online] Available at: <https://bangladesh.savethechildren.net/news/working-together-national-human-rights-commission-transform-children%E2%80%99s-rights-realities> [Accessed 4 Oct. 2018].
- [6]. Bangladesh Gadget (2014), Peoples Republic of Bangladesh, The National Human Rights Commission Act 2009.
- [7]. Brac.net. (2018). Situation analysis of human trafficking and irregular migration. [online] Available at: <http://www.brac.net/latest-news/item/1070-situation-analysis-of-human-trafficking-and-irregular-migration> [Accessed 3 Oct. 2018].
- [8]. Crossman, A. (2018). What Is Qualitative Research? [online] ThoughtCo. Available at: <https://www.thoughtco.com/qualitative-research-methods-3026555> [Accessed 3 Oct. 2018].
- [9]. CSRL. (2018). National Human Rights Commission and Oxfam signed MoU. [online] Available at: <https://csrbd.org/national-human-rights/> [Accessed 4 Oct. 2018].
- [10]. Extrajudicial killing a threat to rule of law: NHRC, theindependentbd.com. (2018). Extrajudicial killing a threat to rule of law: NHRC. [online] Available at: <http://www.theindependentbd.com/printversion/details/17747> [Accessed 4 Oct. 2018].
- [11]. Freedman, L.P. and Isaacs, S.L., (1993) Human rights and reproductive choice. Studies in family planning
- [12]. Hussain, A. (2018). Enforcement of Law and Protection of Human Rights in Bangladesh | daily sun. [online] Daily Sun. Available at: <https://www.daily-sun.com/printversion/details/327521/2018/08/06/Enforcement-of-Law-and-Protection-of-Human-Rights-in-Bangladesh> [Accessed 4 Oct. 2018].
- [13]. Islam, M. (2018). Recent Illegal Migration Flows and Save Bangladesh: The Legal Framework. (International Migration and Refugee Law). [online] LawJournalBD. Available at: <http://www.lawjournalbd.com/2017/07/recent-illegal-migration-flows-and-save-bangladesh-the-legal-framework-international-migration-and-refugee-law/> [Accessed 3 Oct. 2018].
- [14]. Goodman, R. and Jinks, D., (2003) Measuring the effects of human rights treaties. European
- [15]. Journal of International Law
- [16]. Gusman, J. (2015). The Concept of Human Rights Political and Moral Approaches, Master thesis Political Science (Political Theory) Radboud University
- [17]. Kabir, M, A H. (2016), A National Human Rights Commission for Bangladesh, Asia Pacific Human Rights Information Center
- [18]. Merry, S.E., (2009) Human rights and gender violence: Translating international law into local justice. University of Chicago Press.
- [19]. Moneruzzaman, M. (2018). Bangladesh faces three major challenges: NHRC report. [online] New Age | The Outspoken Daily. Available at: <http://www.newagebd.net/article/40392/bangladesh-faces-three-major-challenges-nhrc-report> [Accessed 3 Oct. 2018].
- [20]. New Age | The Outspoken Daily. (2018). Govt plans housing programs for disabled people: official. [online] Available at: <http://www.newagebd.net/article/50176/govt-plans-housing-programmes-for-disabled-people-official> [Accessed 3 Oct. 2018].
- [21]. New Age | The Outspoken Daily. (2018). Rise in murders, kidnappings in CHT worry NHRC. [online] Available at: <http://www.newagebd.net/article/39323/rise-in-murders-kidnappings-in-cht-worry-nhrc> [Accessed 3 Oct. 2018].
- [22]. Nhrc.org.bd. (2018). Meeting-of-Committee-on-Child-Rights-Child-Labor-and-Anti-Trafficking-and-Migration. [online] Available at: <http://www.nhrc.org.bd/site/news/e79ba709-677b-4cfa-a94e-88a1c29b51dd/Meeting-of-Committee-on-Child-Rights-Child-Labor-and-Anti-Trafficking-and-Migration> [Accessed 3 Oct. 2018].
- [23]. Nhrc.org.bd. (2018). পরিচিতি - জাতীয়মানবাধিকারকমিশনবাংলাদেশ-. [online] Available at: <http://www.nhrc.org.bd/site/page/1c65dfa1-f9c2-48e9-a66b-eab8de75d9b1/%E0%A6%AA%E0%A6%B0%E0%A6%BF%E0%A6%9A%E0%A6%BF%E0%A6%A4%E0%A6%BF> [Accessed 3 Oct. 2018].
- [24]. Odhikar.org. (2018). Odhikar | Statistics on Killed by Law Enforcement Agencies. [online] Available at: <http://odhikar.org/statistics/killed-by-law-enforcement-agencies/> [Accessed 4 Oct. 2018].
- [25]. ProthomAlo. (2018). Impose sanctions on Myanmar: NHRC. [online] Available at: <https://en.prothomalo.com/bangladesh/news/180802/Impose-sanctions-on-Myanmar-NHRC> [Accessed 3 Oct. 2018].

- [26]. Riti, T.H (2016), Implementing UPR Commitments for Promoting Human Rights Standards in Bangladesh, vol: 61, pp-101. \*Federal Department of Foreign Affairs FDFA 2018, International Human Rights Conventions, <https://www.eda.admin.ch/eda/en/home/foreign-policy/international-law/un-human-rights-treaties.html>
- [27]. Sakhawat, A. (2018). NHRC chairman demands action against human trafficking godfathers. [online] Dhaka Tribune. Available at: <https://www.dhakatribune.com/bangladesh/law-rights/2017/07/29/nhrc-chairman-trafficking-godfathers> [Accessed 3 Oct. 2018].
- [28]. Stanford (2005) Civil Rights Act of 1964, <https://kinginstitute.stanford.edu/encyclopedia/civil-rights-act-1964>
- [29]. Taru, F. (2016) Application of Fundamental Rights of Bangladesh Constitution: An Analysis on the Light of International Human Rights Instruments, *Journal of Law, Policy and Globalization*
- [30]. The Daily Star. (2018). Land key to protection of all other rights in CHT. [online] Available at: <https://www.thedailystar.net/land-key-to-protection-of-all-other-rights-in-cht-56111> [Accessed 3 Oct. 2018].
- [31]. The Daily Star. (2018). NHRC forms 10 committees to defend people's rights. [online] Available at: <https://www.thedailystar.net/city/nhrc-forms-10-bodies-defend-peoples-rights-1405942> [Accessed 3 Oct. 2018].
- [32]. UNHR (2013). Paris Principles: 20 years guiding the work of National Human Rights Institutions. <https://www.ohchr.org/en/newsevents/pages/parisprinciples20yearsguidingtheworkofnhri.aspx>
- [33]. UNHCR (2018). The Action Research Study on the Institutional Development of Human Rights in Bangladesh (IDHRB), <http://www.refworld.org/docid/42df60a711.html>
- [34]. Universal Declaration of Human Rights, [http://www.un.org/en/universal-declaration-human](http://www.un.org/en/universal-declaration-human-rights/)
- [35]. [rights/](http://www.un.org/en/universal-declaration-human-rights/)
- [36]. Youth for Human Rights International, (2018). UN Ratification Universal Declaration of Human Rights <https://www.youthforhumanrights.org/what-are-human-rights/universal-declaration-of-human-rights/a>

Bulbul Ahmed "The Core Legal Instruments to Ensure Human Rights in Bangladesh: An Overview." *IOSR Journal of Humanities and Social Science (IOSR-JHSS)*. vol. 24 no. 07, 2019, pp. 41-46.