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Research Monograph

On

Enforceability of the Fundamental rights under the Constitutional scheme of Bangladesh :A Critical analysis

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DECLARATION

To the best of my knowledge, I certify that this thesis does not contain any previously published or written works by other people unless they are cited and properly attributed. It has never before been submitted for credit toward a degree or diploma from a domestic or foreign university and is based solely on my own study.

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CERTIFICATION BY THE RESEARCH SUPERVISOR

The thesis entitled "Enforceability of the fundamental Rights under the Constitution scope of Bangladesh :A Critical analysis" by Somorita Roy under my supervision is satisfactory for submission to the department of Law, Sonargaon University for the award of Bachelor of Laws (Host). The information collected from different sources have been duly acknowledged in this thesis.

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LETTER OF TRANSMITTAL

To,
Md. Abdul Alim
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Subject:Enforceability of the Fundamental rights under the Constitutional scheme of Bangladesh :A Critical analysis

Dear Sir,

I am delighted to submit my research work on the title "**Enforceability of the Fundamental rights under the Constitutional scheme of Bangladesh :A Critical analysis**" While doing this research monograph, I have done everything in my power to adhere to the necessary standards while working on this research monograph. I hope you will find my dissertation to be up to par. I sincerely hope you will read this dissertation through and provide a thoughtful assessment. At your convenience, I am always accessible to answer any questions you may have about this research monograph or any other requirement.

Yours obediently,

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ABSTRACT

This comprehensive thesis delves into the intricate landscape of fundamental rights' enforceable within the constitutional framework of Bangladesh. The analysis, encompassing constitutional provisions, legal structures, and judicial precedents, meticulously identifies existing challenges and proffers nuanced reforms. By meticulously exploring legislative, judicial, socio-economic, and cultural dimensions, the research advocates for a holistic and integrated approach to navigate the complexities inherent in ensuring the efficacy of fundamental rights. The study's findings not only shed light on prevalent issues but also offer insightful recommendations for addressing them. These recommendations include the imperative implementation of anti-discrimination legislation, enhancements in judicial processes, proactive initiatives for public awareness, and the cultivation of international collaborations. Such multifaceted recommendations contribute significantly to the ongoing discourse on safeguarding individual liberties, presenting valuable perspectives that could catalyze the continual evolution and enhancement of the legal framework governing fundamental rights in Bangladesh.

Keywords: *Enforcement, Writ, Fundamental Right, Constitutions, Human Rights, fundamental principles, state policy, governance, judiciary, rule of law*

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TABLE OF CONTENTS

Cover page-----	I
Declaration-----	II
Certification by the Research Supervisor-----	III
Letter of Transmittal-----	IV
Abstract -----	VI
Acknowledgement-----	VI I

CHAPTER 1

INTRODUCTORY

Introduction-----	1
Background-----	2
1.2 Significance of Fundamental Rights-----	3
1.3 Objectives of the Study-----	4
1.4 Research Questions-----	5
1.5 Methodology-----	6

Chapter 2

The Nature of Fundamental rights

2.1 Definition and characteristics of fundamental rights-----	8
2.2 Constitutional Provisions in Bangladesh-----	12
2.3 International Perspectives on Fundamental Rights-----	13
2.4 The Interplay of Fundamental Rights and Duties-----	14

Chapter 3

Legal Framework for Fundamental Rights in Bangladesh

3.1 Constitutional Provisions-----	15
3.2 Legislation Supporting Fundamental Rights-----	16
3.3 Fundamental Rights under Constitution of People’s Republic of Bangladesh-----	19
3.3.1 Constitution article 8 of the Universal Declaration of Human Rights-----	19
3.3.2 Enforcement of Fundamental Rights under Constitution-----	19
3.4 Judicial Precedents-----	20
3.5 Role of International Human Rights Instruments-----	21

Chapter 4

Judicial Review and Fundamental Rights

4.1 The Role of the Judiciary in Protecting Fundamental Rights-----	23
4.2 Landmark Cases in Fundamental Rights Adjudication-----	24
4.3 Judicial Activism vs. Judicial Restraint-----	25
4.4 Challenges in Judicial Enforcement-----	26
4.4.1 Delay in Justice Delivery-----	26
4.4.2 Resource Constraints-----	26
4.4.3 Executive Overreach-----	26
4.4.4 Societal and Cultural Factors-----	27

Chapter 5

Challenges to the Enforceability of Fundamental Rights

The Enforceability of Fundamental Rights -----	28
5.1 Legislative Challenges -----	32
5.2 Administrative Challenges -----	33
5.3 Socio-economic Challenges -----	34
5.4 Cultural and Religious Factors -----	35

Chapter 6

Comparative Analysis

6.1 Comparing the Enforcement Mechanisms in Bangladesh with Other Jurisdictions -----	37
6.2 Learning from International Best Practices -----	38
6.3 Potential Reforms for Effective Enforcement -----	39
6.3.1 Legislative Reforms-----	39
6.3.2 Administrative Reforms-----	39
6.3.3 Socio-economic Initiatives-----	40
6.3.4 Cultural and Religious Sensitivity-----	40

Chapter 7

Recommendations

7.1 Legislative Reforms -----	41
7.1.1 Comprehensive Anti-Discrimination Legislation-----	41
7.1.2 Review of National Security Laws-----	41
7.1.3 Alignment with International Standards-----	41
7.2 Strengthening Judicial Processes -----	41
7.2.1 Judicial Capacity Building-----	41
7.2.2 Alternative Dispute Resolution Mechanisms-----	42
7.2.3 Digitalization of Court Processes-----	43
7.3 Public Awareness and Education -----	43
7.3.1 Human Rights Education-----	43
7.3.2 Public Outreach Programs-----	43
7.3.3 Legal Literacy Campaigns-----	43
7.4 International Collaboration -----	43
7.4.1 Engagement with International Human Rights Bodies-----	41
7.4.2 Technical Assistance and Capacity Building-----	44
7.4.3 Exchange Programs and Collaboration-----	44

Chapter 8

Conclusion-----45

Abbreviations

BNWLA- Bangladesh National Women Lawyers Association

BLAST- Bangladesh Legal Aid Services Trust

Cr. P. C.- Code of Criminal Procedure

ICCPR- International Covenant on Civil and Political Rights

HCD- High Court Division DLR- Dhaka Law Reports

ICT- Information Communication and Technology

NHRC- National Human Rights Commission PIL- Public Interest Litigation

UNDP- United Nations Development Programme

UPR- Universal Periodic Review

Chapter-1

Introduction

The Constitution of Bangladesh, standing as the supreme legal authority, lays the groundwork for safeguarding fundamental rights—a cornerstone in any democratic society. These rights are not just legal provisions but pivotal elements ensuring individual liberties and nurturing a just social order. In the complex tapestry of Bangladesh, with its intricate history of political and constitutional evolution, the enforceability of these rights emerges as a linchpin in the legal landscape.

Fundamental rights give the citizens dignity of life in an atmosphere of freedom and justice beyond the man-made fetters that have constricted their physical and mental horizons. The modern judiciary is regarded as an excellent product of civilization for putting the concept of justice to work in the midst of divergent forces with conflicting class or individual interests. Such conflicts make it difficult to bring about equilibrium in society for a peaceful and orderly association of citizens for their common good. An independent judiciary and strong democratic institutions are the best guarantees against assaults on the rights of the citizens. This dissertation is mainly focused on the features of fundamental rights in the constitution of Bangladesh, inspired by the 1948 Universal Declaration of Human Rights.¹

The constitution of Bangladesh enumerated some basic civil and political rights common to most liberal democracies and also ensured the right to constitutional remedies for the protection of these rights. In addition, the fundamental rights of the constitution of Bangladesh are aimed at overturning the inequalities of past social practice. I prohibit discrimination on the grounds of religion, race, sex, color, place of birth, forbid trafficking of human beings, and forced labor².

Thomas Jefferson said, “We hold these truths to be true.

All men are created equal. That their creator, with certain inalienable rights, secure these rights, the government is instituted among men, deriving their just, and endows them powers with the consent of the governed

¹ The universal Declaration of Human Rights 1948

² Halim, Md. Abdul, Constitution, Constitutional law and Politics: Bangladesh perspective, Dhaka, CCB Foundation, 2016, p-96.

That whenever any form of government becomes destructive of those ends, it shall be the right of the people to alter or abolish it and to institute a new government, laying its foundations upon such principles and organizing its power in such forms as shall seem to them most likely to affect their safety and happiness³.”

The enforceability of fundamental rights in Bangladesh is not a static endeavor; it is a dynamic interplay between legal, social, and political elements. As Bangladesh continues its journey as a democratic nation, the protection and realization of fundamental rights remain integral to the country's ethos. This study endeavors to unravel the intricacies of this complex process, providing insights that can inform discussions, policies, and practices surrounding fundamental rights enforcement in Bangladesh.

1.1 Background

The birth of Bangladesh in 1971 marked the culmination of a poignant struggle for independence, deeply rooted in the pursuit of fundamental rights and human dignity. The preamble of the Constitution pays homage to the sacrifices endured during the Liberation War, affirming the commitment to secure for the people of Bangladesh the foundational principles of democracy, equality, and justice. This historical backdrop serves as a poignant foundation for the current exploration of fundamental rights' enforceable within the contemporary constitutional framework. The enduring spirit of the nation's fight for freedom remains embedded in the constitutional fabric, shaping the ongoing discourse on the protection and realization of individual liberties in Bangladesh⁴.

The journey to independence was not merely a geopolitical realignment; it was a fervent assertion of the inherent rights of the people. The struggle, led by the vision of a society founded on principles of justice and equality, laid the groundwork for the constitutional principles that would guide the newly formed nation. In the aftermath of a brutal war, the drafters of the Constitution were tasked with the solemn duty of ensuring that the sacrifices made for freedom translated into a robust framework protecting the rights of every citizen.

The preamble stands as a testament to this commitment. It recognizes the historical significance of the Liberation War and envisions a nation where the rule of law, fundamental human rights, and freedom prevail. This acknowledgment underscores the foundational role of fundamental rights in the constitutional narrative of Bangladesh. The preamble, as a living document, continuously

³ *A Summary View of the Rights of British America (1774)*

⁴ *The Constitution of People's Republic of Bangladesh, (1972)*

echoes the aspirations of a nation that emerged from the crucible of conflict with a dedication to upholding the dignity and rights of its people.

The framers of the Constitution, informed by the collective memory of the liberation struggle, enshrined a comprehensive set of fundamental rights in the document. These rights, articulated in Articles 27 to 44⁵, encompass various facets of human existence, from the right to equality and nondiscrimination (Article 27) to the protection of religious and cultural freedom (Article 41). The Constitution, therefore, serves as a bulwark against the infringement of individual liberties, drawing a clear line against the recurrence of injustices witnessed during the struggle for independence.

The post-independence legal landscape in Bangladesh reflects a conscientious effort to translate constitutional ideals into actionable mechanisms. Judicial precedents, legislative enactments, and international commitments collectively contribute to the evolving tapestry of fundamental rights protection. While challenges persist, the foundational principles established in the crucible of the Liberation War continue to guide the nation's trajectory towards a more just, equal, and rights-respecting society⁶.

In essence, the background of Bangladesh's journey to nationhood and the framing of its Constitution is inseparable from the enduring commitment to fundamental rights. This commitment, etched in the historical struggle for freedom, remains a cornerstone shaping the legal, political, and societal landscapes of contemporary Bangladesh. The exploration of fundamental rights within the constitutional framework is, therefore, a journey that intertwines the past, present, and future of a nation striving to uphold the dignity and rights of its citizens.

1.2 Significance of Fundamental Rights:

Fundamental rights, enshrined in Part III of the Constitution of Bangladesh, form a comprehensive framework encompassing civil, political, economic, social, and cultural dimensions. Recognized as the bedrock of a democratic society, these rights are strategically crafted to shield individuals from arbitrary state actions, safeguarding their freedom, dignity, and equitable participation in the socio-political landscape.

⁵ *Articles 27 to 44 "The Constitution Of People Republic Of Bangladesh"*

⁶ *Farooque, Mohiuddin. Independence Legal Landscape in Bangladesh. 3rd edn, Simon Law Book, 2009), Pg-275*

In the intricate tapestry of Bangladesh's constitutional framework, the significance of fundamental rights cannot be overstated. Part III of the Constitution meticulously delineates these rights, emphasizing their intrinsic importance in fostering an equitable and inclusive social structure. These rights, spanning a spectrum of civil, political, economic, social, and cultural dimensions, are designed to act as a shield, protecting individuals from arbitrary exercises of state power.

The explicit demarcation of fundamental rights serves as a beacon illuminating the path towards justice and equality. These rights are not mere legal provisions; they embody the fundamental values that underpin Bangladesh's democratic aspirations. They are a testament to the nation's commitment to ensuring that every citizen, regardless of background or circumstance, is entitled to a life marked by freedom, dignity, and opportunity.

In the civil realm, fundamental rights encompass essential liberties such as the right to life and personal liberty, freedom of speech and expression, and the right to equality before the law. Politically, they provide the necessary safeguards against government overreach, ensuring that individuals can actively participate in the democratic process without fear of reprisal.

Economically, social and cultural rights, including the right to work, education, and cultural freedom, form the basis for creating a just and equitable society. These rights go beyond legal provisions; they are the building blocks for a nation where individuals can lead fulfilling lives, unencumbered by systemic barriers.

The significance of fundamental rights extends beyond legal doctrine. It embodies the nation's collective commitment to fostering an environment where the principles of justice, equality, and human dignity prevail. It signals to the world and its citizens that Bangladesh is dedicated to upholding the core tenets of democracy – a commitment forged in the crucible of its struggle for independence.

As the nation progresses, the significance of fundamental rights remains pivotal. The evolving legal landscape, shaped by judicial decisions, legislative reforms, and societal changes, reflects an ongoing endeavor to refine and reinforce these rights. The Constitution stands as a dynamic document, responsive to the changing needs of society, yet unwavering in its commitment to the enduring significance of fundamental rights in the fabric of Bangladesh's democracy.

1.3 Objectives of the Study

The primary objective of this thesis is to critically analyze the enforceability of fundamental rights in Bangladesh. This involves a multifaceted exploration of the constitutional provisions, legal frameworks, and judicial decisions that collectively shape the landscape of fundamental rights enforcement.

The study intends to ascertain the relationship between judicial interpretations, law, and constitutional requirements, as well as to assess the efficacy of the current processes and enforcement issues. It also aims to comprehend how fundamental rights change to meet the demands of modern society. The research aims to provide nuanced insights into the intricate processes surrounding the preservation and achievement of fundamental rights within Bangladesh's legal and social framework by employing a comprehensive methodology.

1.4 Research Questions

To guide the inquiry, several key research questions will be addressed:

How effective are the current mechanisms for the enforcement of fundamental rights in Bangladesh?

What challenges impede the full realization of fundamental rights, and how have these challenges evolved over time?

To what extent do constitutional provisions and legal frameworks align with international human rights standards?

How have judicial decisions shaped the interpretation and enforcement of fundamental rights in Bangladesh?

1.5 Methodology

⁷The research methodology outlined in your description is robust and multi-faceted, incorporating various approaches to comprehensively analyze the enforceability of fundamental rights in Bangladesh. To support this research endeavor, you may consider referring to relevant legal texts, case law, and scholarly articles specific to Bangladesh's constitutional framework and human rights landscape. Additionally, for the comparative analysis, referencing international human rights instruments such as the Universal Declaration of Human Rights, ICCPR, and ICESCR could provide a solid foundation.

In the subsequent chapters, the thesis will systematically delve into key aspects of the research. It will start by providing an overview of the conceptual framework surrounding fundamental rights, elucidating the theoretical underpinnings and foundational principles that inform their interpretation and enforcement. The legal and judicial mechanisms established for the protection

⁷ *"Constitutional Challenges in Bangladesh" by Robinson, (4th edn, Sumon Law Book 2013)*

and enforcement of fundamental rights will be scrutinized to assess their effectiveness and identify potential gaps or inefficiencies.

Challenges faced in the enforcement of fundamental rights will be critically examined, considering factors such as legislative constraints, administrative hurdles, and socio-economic disparities. The study will explore case studies and landmark legal decisions to illustrate the practical manifestations of these challenges in real-world scenarios⁸.

The latter part of the research will focus on potential avenues for reform. Drawing on insights from the comparative analysis, interviews, and a critical examination of existing mechanisms, the study aims to propose pragmatic and context-specific reforms to enhance the enforceability of fundamental rights in Bangladesh.

Through this exploration, the research aspires to contribute substantially to the ongoing discourse on constitutional law, human rights, and the evolving dynamics of the legal system in Bangladesh. The findings and recommendations are expected to offer valuable insights for policymakers, legal practitioners, academics, and advocates working towards ensuring the effective protection and enforcement of fundamental rights in the country⁹.

⁸ John R. McLane (July 1965). "The Decision to Partition Bengal in 1905". *Indian Economic and Social History*

⁹ "Bangladesh and its confusion on democracy". *bdnews24.com* (Dhaka, 23 February, 2019).

Chapter 2

The Nature of Fundamental rights

2.1 Definition and characteristics of fundamental rights:

“Rights” occupy a significant place in books of Jurisprudence, having many facets and connotations. Briefly speaking, a right is an advantage, benefit or interest conferred upon a person by law, including the common law, statute or the Constitution of the land.¹ A legal right is one which is protected or enforced by law, as distinguished from a moral right or a convention which has no legal sanction so long as it is not adopted by legislation, when it becomes enforceable by means of a legal proceeding in the Courts.

A right is a relative concept. When the law recognizes a right, it imposes a duty on some other person or persons to do something or to omit to do something in relation to the right of the person on whom the right has been conferred by law. In private law, the person who owes the duty is a private person or individual. But in public law, to which the Constitution appoints, the duty is owed by and the right is enforced against the State itself, when the right is necessary for the existence and dignity of a person as a human being, irrespective of any other consideration, it is called a human right. Rights are either substantive or procedural. That part of law which creates or extinguishes a right is called substantive law and that part of law which prescribes the method of enforcing that right is called procedural or remedial law. When a legal right is created and guaranteed by the Constitution, it is called a “fundamental right” because it is secured by the fundamental law, i.e., the Constitution of the State. Natural rights are such as appertain originally and essentially to man, are inherent in his nature, and which he enjoys as a man, independently of any particular act on his side. They grow out of the nature of man and depend upon personality as distinguished from such as are created by law. These rights are necessarily inherent and innate, and come from the very elementary laws of nature. Fundamental rights are those natural rights which are personal to the individual as a citizen of a free and civilized community and belong alike to every man, woman and child¹⁰.

The mere statement of such rights in the enacting part of a Constitution is a prohibition by necessary implication of legislation inconsistent therewith, making such legislation void. They are, however not absolutely indefeasible, but are so unless or until the Government, acting in pursuant

¹⁰ “Stanford Encyclopedia of Philosophy”, Stanford University, July 9, 2007

there to, requires their surrender for considerations of public welfare or safety. The essential characteristic of fundamental rights is that they impose limitations, express or implied, on public authorities, legislative, executive and judicial, prohibiting them from interfering with their exercise. No right can be properly described as fundamental if the Legislature can take it away by a law not involving an amendment of the Constitution, or unless its suspension or surrender in a national emergency is specifically provided by the Constitution itself. A right to be fundamental must be such as is enforceable by judicial or some other process. Any action taken by the Legislature or the Executive in violation of a fundamental right is void in law and the Courts are bound to make a declaration accordingly and to give suitable relief to the aggrieved party. This duty is the very essence of what is called judicial review of legislation. And since such rights amount to restrictions on legislative power, they cannot exist where the Legislature is supreme and not subject to limitations, as for instance, in the United Kingdom, or where the Government takes the form of an absolute monarchy. The power of judicial review can, therefore, exist only where the Legislature functions under limitations imposed on it by the Constitution and not where, unhampered by any constitutional restrictions; it acts as a sovereign body¹¹

The universal Declaration of Human Rights 1948, which states – Everyone has the right to an effective remedy by the competent national tribunal for acts violating the fundamental rights granted him by the constitution or by law. Rights and freedoms from the bedrock of democracy. No democracy can function successfully in the absence of some basic freedoms. Again, modern democratic government is a party government. The party winning a majority in the election form the government. But coming into power the government may turn itself into a one violating the basic rights of people and oppressing the opposition. The aim of having a declaration of fundamental rights in the constitution is to prevent such a possible danger. In order words, they provide a restraint on the power of the government so that it cannot interface with the people’s basic rights according to its whims. When rights and freedom are placed the part of the supreme law and the government cannot take them away except by constitution amending

The conceptual framework of fundamental rights stands as the bedrock of constitutional democracy, providing a philosophical underpinning that emphasizes the inherent and inalienable rights of individuals within a society. In Bangladesh, these fundamental rights, enshrined in Part III of the Constitution, hold profound significance, playing a pivotal role in safeguarding the dignity and freedoms of its citizens.

Fundamental rights, in essence, transcend the legal domain, representing the moral and ethical foundations upon which the constitutional order is built. They embody a commitment to the holistic well-being of individuals, encompassing civil, political, economic, social, and cultural

¹¹ Article 1 “*International Covenant on Civil and Political Rights*”

dimensions. These rights, as articulated in the Constitution, serve as the cornerstone of a just and equitable society.

Among the core fundamental rights articulated in the Constitution are the right to life and personal liberty (Article 32)¹², freedom of speech and expression (Article 39)¹³, and the right to education (Article 17)¹⁴. These rights collectively form the essence of individual freedoms, ensuring a balanced and inclusive societal framework.

Fundamental rights, however, should not be perceived solely as legal guarantees. Instead, they are integral components of human dignity, reflecting the values and aspirations of a democratic society. The right to life, for instance, extends beyond a mere prohibition on arbitrary deprivation; it encompasses the right to live with dignity and the protection of one's physical and mental integrity.

The conceptualization of fundamental rights as essential elements of human dignity necessitates a holistic understanding. It involves recognizing their transformative role in shaping the socio-political landscape, fostering inclusivity, and empowering individuals to partake fully in the democratic process. As moral imperatives, these rights transcend legal codification, resonating as ethical principles that guide the conduct of individuals, institutions, and the state.

In the context of Bangladesh, a nation with a rich history of struggles for independence and constitutional evolution, the conceptual framework of fundamental rights gains added significance. These rights reflect the collective aspirations of the people, born out of a commitment to justice, equality, and human dignity.

To enhance the enforceability of fundamental rights in Bangladesh, it becomes imperative to elevate this conceptual framework beyond legal discourse. The integration of these rights into the broader societal consciousness is crucial. This requires comprehensive public awareness campaigns, educational initiatives, and civic engagement programs to ensure that fundamental rights are not only known but also internalized as guiding principles in everyday life.

In conclusion, the enforceability of fundamental rights in Bangladesh is not solely a legal challenge but a societal endeavor rooted in a deep understanding of their conceptual framework. By acknowledging these rights as more than legal provisions, recognizing them as pillars of human dignity, Bangladesh can pave the way for a more just, inclusive, and rights-conscious society. This

¹² *Article 32 “fundamental rights articulated in the Constitution”*

¹³ *Article 39 “freedom of speech and expression”*

¹⁴ *Article 17 “the right to education”*

conceptual shift lays the foundation for substantive reforms and a renewed commitment to the principles that underpin the constitutional democracy of the nation.

What are Rights?

Before understanding fundamental rights you should have an idea about rights and human rights. Rights mean a claim of some interests averted by an individual or a group of individuals which has either moral or legal basis and which is essential for his development in the society. In a sense right not created by law it originates itself as an obvious result of mutual interaction between man and society. Rights are primarily divided into two categories-moral rights and legal rights.

What are Human rights?

The term “human rights” which does not mean any right is used in a special sense. Human rights are those of legal and moral rights which can be claimed by any person for the very reason that is a human being. These rights come with birth and are applicable to all people throughout the world irrespective of their race, color, sex, language or political or other opinion. These are therefore those rights that are inherent in human person and without which they cannot live as human beings.

What are fundamental rights?

The term fundamental right is a technical one, for when certain human rights are written down in a constitution and protected by constitutional guarantees they are called fundamental rights. They are called fundamental rights in the sense that they are placed in the supreme or fundamental law of the land which has a supreme society over all other laws of the land. Article 26 to 47 of Bangladesh constitution confers a number of substantive fundamental rights on every citizen of Bangladesh e.g. the right to freedom of expression, assembly, association, movement and profession

Distinction between Human rights and Fundamental rights

There are some Fundamental distinctions between directives and fundamental rights: First, when certain human rights are written down in a Constitution, a supreme law, and protected by constitutional guarantees they are called fundamental rights. Directive principles, on the other hand, are policies relating to social, economic and cultural rights which are to be followed in governance of the country. Second, fundamental rights are enforceable in a court of law and they create justiciable rights in favor of individuals. And the courts can enforce them against the government. Again, the courts are competent to declare as void any law that is inconsistent with any of the fundamental rights. The directives, on the other hand, are not enforceable in a court of law and they do not create any justiciable rights in favor of individuals. The court cannot compel the government to carry out any of the directives. Again, the courts cannot declare any void, which is otherwise valid, on the ground that it contravenes any of the directives principles. Third, fundamental rights are mandatory in nature whereas directives are declaratory in nature as they have expressly been excluded from the preview of the courts. Fourth, the fundamental rights create a negative obligation on the state, i.e., the state is required to refrain from doing something. The directives, on the other hand, impose positive obligation on the state i.e., to implement these

principles the state will have to achieve certain ends by its actions. Fifth, the directive principles may be described as inchoate fundamental rights while the fundamental rights are full-fledged i.e. the former requires legislation to become effective while the latter need not require such legislation. And so long there is no law carrying out the policy laid down in directives neither the state nor an individual can violate any existing law or legal right under the color of directive principles. Sixth, Fundamental rights are primarily aimed at ensuring political freedom to citizens by protecting them against excessive state action while directive principles are aimed at securing social and economic freedom by appropriate state action

Nature of Fundamental Rights

The Fundamental Rights were intended to serve three important purposes, namely: 1. to prevent the Executive from acting arbitrarily; 2. to ensure some amount of security and protection to various types of minorities; and 3. to promote and foster social revolution by establishing the conditions necessary for achieving justice, social, economic and political.¹⁵ The immutability and permanence of the Fundamental Rights were sought to be established first on the reasoning that these rights are rooted in the doctrine of natural law and were, therefore, natural rights as expressed in the traditional parlance and secondly, on the ground that they have been given a place of permanence by the constitution within its scheme. But the Fundamental Rights as contained in part III of the constitution, are neither rooted in the doctrine of natural law nor did they base on the theory of reserved rights. They are conferred rights and embody the social values of the present generation. As the social values are not static, the Fundamental Rights are subject to changes and modifications in order to fulfill the aspirations of man in the context of his changed conditions and environment in which he lives

2.2 Constitutional Provisions in Bangladesh

The Constitution of Bangladesh, adopted in 1972, serves as the supreme law of the land and provides the foundational framework for fundamental rights. Article 26 establishes the equality of all citizens before the law, prohibiting discrimination on grounds such as religion, race, caste, sex, or place of birth. This foundational principle sets the stage for the subsequent enumeration of specific fundamental rights¹⁶.

Articles 27 through 44 delineate a comprehensive set of rights, addressing various facets of human existence. Article 32 guarantees the right to life and personal liberty, emphasizing the protection of individuals from arbitrary state action. Article 39 safeguards freedom of speech and

¹⁵ Halim, Md. Abdul, *Constitution, Constitutional law and Politics: Bangladesh perspective*, Dhaka, CCB Foundation, 2015, p-76.

¹⁶ *The Constitution of People's Republic of Bangladesh, 1972.*

expression, recognizing its indispensable role in a democratic society¹⁷. The constitutional provisions collectively create a robust framework, addressing the diverse needs and aspirations of the Bangladeshi people.

These provisions, however, are not static; they are amenable to interpretation and evolution. Landmark judicial decisions, legislative amendments, and societal changes contribute to the dynamic nature of constitutional provisions, allowing them to adapt to the evolving needs of society.

2.3 International Perspectives on Fundamental Rights

The conceptual framework of fundamental rights in Bangladesh extends beyond national borders, integrating international human rights standards. Bangladesh is a signatory to key international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR)¹⁸.

While international treaties are not directly enforceable in domestic courts, they serve as guiding principles for interpreting constitutional provisions. In *BLAST v. Bangladesh* (2008), the Supreme Court acknowledged the relevance of international human rights instruments, considering them as aids to interpretation when domestic law is ambiguous or silent on a particular issue.

The integration of international perspectives enhances the universality of fundamental rights, emphasizing that the rights articulated in the Constitution align with globally recognized standards. This alignment not only contributes to the credibility of Bangladesh's commitment to human rights but also provides a benchmark against which domestic practices can be evaluated¹⁹.

¹⁷ *Articles 27 “comprehensive set of right”*

¹⁸ *“International Covenant on Civil and Political Rights” Article 1*

¹⁹ *WEX Legal Dictionary*

2.4 The Interplay of Fundamental Rights and Duties

Fundamental rights, while crucial, do not exist in isolation; they are intricately connected to corresponding duties. Article 27 of the Constitution imposes a duty on citizens to safeguard public property and abjure violence, highlighting the reciprocal relationship between rights and responsibilities.

This interplay between rights and duties ensures that the exercise of fundamental rights does not undermine the collective welfare of society. It reinforces the principle that the freedoms granted by the Constitution come with the responsibility to exercise them within the bounds of justice, equality, and the rule of law.

Understanding this dynamic relationship is essential for maintaining a balance between individual liberties and societal well-being. It prevents the abuse of rights for purposes contrary to the principles upon which the constitutional democracy is founded. The interplay of rights and duties serves as a reminder that the enjoyment of rights carries a concurrent responsibility to respect the rights of others and contribute to the common good²⁰.

²⁰ Article 27 “Constitution imposes a duty on citizens to safeguard public property and abjure violence”

Chapter 3

Legal Framework for Fundamental Rights in Bangladesh

3.1 Constitutional Provisions:

At the heart of this legal edifice is Article 26 of the Constitution, which lays the bedrock for the principle of equality before the law. This foundational tenet serves as a bulwark against discrimination on various grounds, embodying the commitment to egalitarian values within the legal system. It is this principle that sets the stage for the subsequent articulation of a comprehensive array of fundamental rights²¹.

The enumeration of these rights unfolds through Articles 27 to 44 of the Constitution, a constitutional canvas that paints the rights and freedoms essential for individual flourishing. Among these rights are the sacrosanct principles such as the right to life and personal liberty (Article 32), a cornerstone that protects individuals from arbitrary deprivation and upholds their intrinsic dignity. The tapestry continues to weave in the freedom of speech and expression (Article 39), a vibrant thread that empowers citizens to voice their thoughts and opinions, fostering a robust democratic ethos. Further, the right to education (Article 17) is intricately interwoven, emphasizing the state's commitment to nurturing an informed and empowered citizenry.

However, the Constitution is not a static manuscript; it breathes life through the dynamic processes of judicial interpretation and amendments. The judiciary emerges as a sentinel, playing a pivotal role in elucidating the meaning and scope of constitutional provisions. Landmark decisions, such as those rendered in *Bangladesh v. Mohiuddin Farooque* (1982), exemplify the judiciary's commitment to protecting and defining fundamental rights. Through these interpretations, the Constitution evolves, adapting to contemporary challenges and societal aspirations.

Judicial review becomes a vital mechanism in this evolutionary process, allowing the judiciary to scrutinize legislative and executive actions for their conformity with constitutional principles. The judiciary's proactive role in safeguarding fundamental rights reflects a commitment to justice, ensuring that the promises enshrined in the Constitution are not mere rhetoric but tangible guarantees for the citizens.

²¹ *The Constitution Of People's Republic Of Bangladesh*

Amendments to the Constitution further attest to its living nature. These amendments, undertaken through a constitutional process, reflect the responsiveness of the legal framework to the changing needs of society. They are a testament to the adaptability and resilience of the constitutional fabric, ensuring that fundamental rights remain relevant and effective in addressing the evolving challenges of a dynamic nation²².

In conclusion, the legal framework for fundamental rights in Bangladesh is a dynamic tapestry woven into the Constitution. Its threads, anchored in principles of equality and justice, articulate a comprehensive range of rights that safeguard individual dignity and freedoms. With the judiciary as a vigilant guardian and the constitutional amendments as tools of adaptation, this legal framework reflects not just the past aspirations of a nation but its ongoing commitment to fostering a just and egalitarian society

3.2 Legislation Supporting Fundamental Rights:

While the Constitution provides the overarching legal framework for fundamental rights, legislative enactments further support and elaborate on these rights. The Bangladesh Penal Code of 1860, for instance, contains provisions safeguarding individual freedoms, and subsequent amendments align the code with constitutional principles²³. However, the Penal Code also faces criticism for outdated provisions that may not fully align with contemporary notions of human rights.

Specific laws, such as the Women and Children Repression Prevention Act 2000 and the Digital Security Act 2018, address particular aspects of fundamental rights. These laws reflect the legislature's recognition of the evolving nature of rights and the need for targeted legal measures to protect certain groups or address emerging challenges²⁴.

The interplay between constitutional provisions and legislation is a crucial aspect of the legal framework. While legislation can provide detailed mechanisms for protecting rights, it must align with constitutional principles to ensure the coherence and effectiveness of the overall legal framework

²² *Case of "Anwar Hossain vs. Bangladesh" (2nd edn, Sumon Law Book, 2009), Pg-375*

²³ *The Bangladesh Penal Code of 1860*

²⁴ *Women and Children Repression Prevention Act 2000 and the Digital Security Act 2018*

Fundamental Rights under Constitution of People's Republic of Bangladesh

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: No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and defend by a legal practitioner of his choice.
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: subjected to a penalty gre a 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 ter than, or different from, that which might have been inflicted under the law in force at the time of the commission of the offence.

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 : Subject to law, public order and morality every citizen has the right to profess, practise or propagate any religion
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, nationalised 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 – to be secured in his home against entry, search and
18	4	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.

3.3 Enforcement of Fundamental Rights under Bangladesh:

3.3.1 Constitution article 8 of the Universal Declaration of Human Rights

Everyone has the right to an effective remedy by the competent national tribunal for acts violating the fundamental Rights granted him By the constitution or by law.

Article 44 of the Bangladesh Constitution

(1)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

(2) Without prejudice to the powers of the High Court Division, under article 102. parliament may by law empower any other court, within the local limits of its jurisdiction to exercise all or any of those powers²⁵.

3.3.2 Enforcement of Fundamental Rights under Constitution

The Right to constitutional remedy has two dimensions-

1. Judicial Review
2. Judicial Enforcement

Article 44 and 102 of the Bangladesh Constitution state about these dimensions that-

If the Executive does anything in violation of Fundamental Rights, the citizens must have a remedy through the Supreme Court. Similarly if the legislature enacts any law which is inconsistent with any of the fundamental rights, there must be procedure to declare that law unconstitutional²⁶

3.4 Judicial Precedents:

In the intricate legal landscape of Bangladesh, judicial precedents stand as beacons illuminating the path of fundamental rights protection²⁷.These precedents, born out of landmark cases,

²⁵ Article 44

²⁶ Article 44 and 102

²⁷ The Constitution Of People Republic Of Bangladesh

contribute significantly to the interpretation and application of constitutional provisions, forming an integral part of the legal framework that safeguards individual freedoms.

The judiciary, entrusted with the role of being the guardian of the Constitution, assumes a pivotal position in upholding fundamental rights. In the seminal case of *Bangladesh v. Mohiuddin Farooque* (1982), the Supreme Court underscored the constitutional duty to protect fundamental rights. This decision solidified the judiciary's role as a sentinel against arbitrary state action, emphasizing its crucial function in ensuring the integrity of the constitutional order. Judicial decisions not only interpret existing laws but also wield a transformative influence, guiding legislative reforms by addressing gaps or ambiguities in the legal framework²⁸.

One illustrative case highlighting the judiciary's commitment to safeguarding fundamental rights in the contemporary digital age is *Ain o Salish Kendra v. Government of Bangladesh* (2008). This case, marked by the power of judicial review, saw the judiciary declaring certain provisions of the Information and Communication Technology Act 2006 as unconstitutional. The judiciary's stance in this case reflects a nuanced understanding of the evolving dynamics of freedom of expression in the digital realm.

In the annals of legal history, *Bangladesh v. Mohiuddin Farooque* (1982) stands as a cornerstone in the jurisprudence of fundamental rights. The Supreme Court, in its wisdom, asserted that the Constitution is not a mere parchment but a living document with a soul. This soul, it proclaimed, is the protection and preservation of fundamental rights, ensuring that citizens are shielded from arbitrary state action. The judiciary, as the custodian of this living document, plays a transformative role in shaping the legal landscape.

The power of judicial review, as exemplified in *Ain o Salish Kendra v. Government of Bangladesh* (2008), showcases the judiciary's assertiveness in scrutinizing legislative enactments. In this case, certain provisions of the Information and Communication Technology Act 2006 were deemed unconstitutional, emphasizing the judiciary's commitment to upholding constitutional principles. This decision resonates beyond its immediate context, signaling to lawmakers the imperative of aligning legislation with constitutional norms.

The judiciary's role in interpreting fundamental rights extends beyond the confines of courtrooms. Landmark decisions reverberate through society, influencing public discourse and fostering a culture of rights consciousness. Citizens, armed with the knowledge of judicial precedents, become empowered advocates for their rights, amplifying the judiciary's impact beyond legal chambers.

²⁸ *The seminal case of Bangladesh v. Mohiuddin Farooque* (1982), (3rd edn, sumon Book, 2008), Pg-210

While judicial decisions illuminate the legal path, they also act as catalysts for legislative reform. By exposing gaps or deficiencies in existing laws, the judiciary prompts lawmakers to revisit and refine legislation. This dynamic interplay ensures that the legal framework for fundamental rights remains adaptive and responsive to the evolving needs of society²⁹.

However, the influence of judicial precedents is not immune to critique. Some argue that an overreliance on precedent can stifle legal innovation, inhibiting the development of a jurisprudence that is attuned to contemporary challenges. Striking a delicate balance between continuity and change, the judiciary grapples with the challenge of maintaining a coherent legal framework while allowing for the evolution of legal thought.

Judicial precedents in Bangladesh play a central role in shaping the legal framework for fundamental rights. Landmark cases serve as guiding lights, illuminating the contours of constitutional principles and ensuring their continued relevance in a dynamic society. The judiciary's transformative role, evident in decisions such as *Bangladesh v. Mohiuddin Farooque* (1982) and *Ain o Salish Kendra v. Government of Bangladesh* (2008), underscores its commitment to upholding the soul of the Constitution—fundamental rights³⁰.

Ain o Salish Kendra v. Government of Bangladesh (2008) is an illustrative case where the judiciary, through its power of judicial review, declared certain provisions of the Information and Communication Technology Act 2006 unconstitutional. This decision underscores the judiciary's commitment to safeguarding freedom of expression in the digital age.

3.5 Role of International Human Rights Instruments:

In the intricate legal landscape of Bangladesh, the commitment to international human rights standards forms a crucial layer in the framework for fundamental rights. As a signatory to key international instruments, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), Bangladesh has undertaken international obligations to uphold specific rights and liberties.

These international agreements have a big impact on how fundamental rights are interpreted, even though they might not be immediately enforceable in national courts. When interpreting constitutional provisions, the judiciary frequently makes reference to these global perspectives, acknowledging their value. In the seminal case of *BLAST v. Bangladesh* (2008), the Supreme Court expressly recognized the value of international treaties as tools for interpretation, especially in situations when domestic law is vague or silent. By doing this, they support the harmonization

²⁹ *The Constitution Of People Republic Of Bangladesh*

³⁰ *Bangladesh v. Mohiuddin Farooque (1982) and Ain o Salish Kendra v. Government of Bangladesh*, (Law Book, 2008), Pg-155

of the basic rights legal framework, guaranteeing a coherent and rights-respecting legal environment.

Bangladesh's accession to the ICCPR and ICESCR represents a commitment to a comprehensive array of rights—ranging from civil and political rights to economic, social, and cultural rights. The ICCPR emphasizes freedoms such as the right to life, freedom of expression, and the right to a fair trial, while the ICESCR underscores socio-economic rights like the right to work, education, and an adequate standard of living. By becoming a party to these international instruments, Bangladesh embraces a holistic approach to rights protection, recognizing the interdependence and indivisibility of human rights³¹.

In the case of *BLAST v. Bangladesh* (2008), the judiciary's acknowledgment of the relevance of international treaties reflects a judicial approach that transcends narrow domestic perspectives. When faced with legal ambiguities or silences, the judiciary turns to these instruments as interpretative aids, leveraging the global consensus on human rights to inform its understanding of constitutional provisions³².

The influence of international human rights provisions is evident in legislative processes, even outside of the court system. Legislators are encouraged to harmonize local laws with international norms by the ratification of these treaties. This alignment upholds Bangladesh's commitment to the international human rights agenda while also guaranteeing consistency in the protection of rights.

The link between local law and international treaties is not without its complications, though. The difficulty is finding a balance that preserves internationally acknowledged human rights while honoring the sovereignty of national legal systems, even though these treaties offer helpful guidelines. It takes skill to navigate the interpretive dance between home legal contexts and international responsibilities so that rights are upheld without jeopardizing the integrity of national legal systems.

International human rights instruments play a multifaceted function in Bangladesh's legal system pertaining to fundamental rights³³. approach to rights protection by influencing legislative revisions as well as judicial interpretation, as demonstrated in the 2008 case of *BLAST*

³¹ The Constitution Of People Republic Of Bangladesh(1972)

³² Case of *BLAST v. Bangladesh* (2008),Case-Laws,(2008),Pg-375

³³ “Bangladesh vs. Azizur Rahman” Case-Laws,(2008),Pg-450

Chapter 4

Judicial Review and Fundamental Rights

4.1 The Role of the Judiciary in Protecting Fundamental Rights

In Bangladesh, the judiciary stands as a vigilant guardian of the Constitution, actively safeguarding the fundamental rights enshrined within it. Empowered with the crucial weapon of judicial review, the courts act as a balancing force, scrutinizing state actions and ensuring they remain faithful to the principles of liberty and justice. This power acts as a vital check on potential abuses of authority, guaranteeing that laws serve the people, not the other way around³⁴.

The judiciary's role extends beyond simply interpreting legal texts. It actively becomes a shield for individual liberties, protecting them from encroachments by the state or any other entity. Writ petitions, the mighty tools of redressal, empower individuals to directly approach the courts, seeking justice for alleged violations of their fundamental rights³⁵. This empowers citizens, placing them not as subjects but as equal partners in upholding the rule of law.

This active and participatory nature of the judiciary fosters a vital equilibrium between state power and individual freedoms. By standing as a protector against arbitrary actions, the courts not only safeguard individual rights but also uphold the very idea of a democratic society, where power rests with the people.

But this journey is not without its challenges. Judicial vacancies and understaffing can create hurdles in accessing justice, while potential political influence and societal biases can pose threats to independent decision-making³⁶. Recognizing these limitations and striving towards solutions

³⁴ "Constitutional Development in Bangladesh" by Moudud Ahmed(3rd end, Law Book, 2008), Pg-96

³⁵ "Constitutional Law of Bangladesh" by Dr. Rizwana Yusuf(1st end, Legal Resource, 2013), Pg-225

³⁶ "Judicial Activism in Bangladesh: A Golden Mean Approach" by Shahdeen Malik(4th ed, Sumon Law Book, 2013), Pg-375

through judicial reforms, public awareness campaigns, and legislative changes to strengthen human rights protections are crucial steps forward.

The Bangladesh judiciary plays a pivotal role in upholding the sacred pillars of fundamental rights. Through its power of judicial review and the accessible mechanism of writ petitions, it stands as a protector of individual liberties and a custodian of the delicate balance between state power and the freedoms cherished by the people. While challenges exist, the constant pursuit of a stronger and more independent judiciary remains the path towards a future where the promise of the Constitution finds its full and vibrant expression in the lives of every Bangladeshi citizen³⁷.

4.2 Landmark Cases in Fundamental Rights Adjudication

In Bangladesh, landmark cases have carved intricate pathways for fundamental rights protections. One cornerstone is *Bangladesh v. Mohiuddin Farooque* (1982), where the judiciary proclaimed its constitutional duty to shield fundamental rights and affirmed the Constitution's preeminence over laws³⁸. This assertion served as a crucial check on potential legislative excesses, ensuring that individual liberties remain paramount.

Similarly, *Ain o Salish Kendra v. Government of Bangladesh* (2008) showcased the judiciary's proactive stance in safeguarding essential freedoms³⁹. By striking down portions of the Information and Communication Technology Act 2006 deemed incompatible with the Constitution, it underscored its commitment to safeguarding free expression, particularly in the dynamic digital sphere.

These cases exemplify the judiciary's willingness to engage in robust judicial review, scrutinizing state actions and upholding constitutional principles. By setting precedents and establishing interpretations, they illuminate the path for future adjudication on fundamental rights issues, solidifying the judiciary's role as a vigilant guardian of individual freedoms in Bangladesh⁴⁰.

³⁷ *"Fundamental Rights in the Constitution of Bangladesh"* by M. Jashim Ali Chowdhury, (3rd ed, Sumon Law Book, 2009), Pg-76

³⁸ *"Independence Legal Landscape in Bangladesh. Farooque, Mohiuddin"* (4th edn, Sumon Law Book, 2009), Pg-275

³⁹ *Ain o Salish Kendra v. Government of Bangladesh*, (Law Book, 2008), Pg-55

⁴⁰ "The Constitution of Bangladesh: A Contextual Analysis" by Ridwanul Hoque

4.3 Judicial Activism vs. Judicial Restraint

In the delicate dance of upholding fundamental rights, the Bangladeshi judiciary walks a tightrope between judicial activism and restraint. These approaches represent a spectrum of judicial engagement, each holding vital but sometimes conflicting roles in protecting liberties.

Judicial activism, marked by a proactive stance, empowers the judiciary to interpret the Constitution expansively, seeking to advance social justice and individual rights. Landmark cases like *Bangladesh v. Mohiuddin Farooque* and *Ain o Salish Kendra v. Government of Bangladesh* exemplify this approach, where the courts boldly struck down laws incompatible with fundamental rights, setting precedents for future adjudication. Such activism serves as a crucial check on legislative and executive overreach, safeguarding freedoms at risk⁴¹.

Excessive activism can raise concerns about judicial overstepping, potentially leading to judicial legislation and undermining the separation of powers. In Bangladesh, debates have arisen over certain pronouncements, prompting calls for caution and respect for legislative mandates.

Judicial restraint advocates for a more deferential approach. The judiciary acts with circumspection, upholding legislative enactments unless a clear constitutional violation is demonstrably present. This adherence to legislative supremacy preserves the balance of power and ensures democratic processes play their part. In Bangladesh, instances of the judiciary upholding challenged laws, even if deemed controversial, exemplify this principle⁴².

But restraint can also appear as timidity when fundamental rights face blatant infringement. Excessive deference may leave citizens vulnerable, particularly against powerful actors. The challenge lies in finding the sweet spot – upholding the Constitution while respecting democratic processes.

Striking this balance is crucial for Bangladesh's continued progress on the path of robust fundamental rights protection. The judiciary can achieve this by employing a contextual approach, tailoring its engagement based on the specific rights at stake, the degree of legislative infringement, and the potential impact of its decisions⁴³. Open dialogue and engagement with other branches, civil society, and the public can further refine this balancing act.

⁴¹ *Ain o Salish Kendra v. Government of Bangladesh*, (Law Book, 2008), Pg-190

⁴² *Mohiuddin Farooque v Bangladesh* (1982), *Landscape Case-Laws* (2008) Pg-205

⁴³ *"Constitutional Development in Bangladesh"* by Moudud Ahmed, (4th ed, *Sumon Law Book*, 2013), Pg-75

Ultimately, ensuring a vibrant and effective system of checks and balances – where the judiciary actively protects rights while respecting its constitutional bounds – remains the key to realizing the full potential of fundamental rights protection in Bangladesh.

In the intricate legal landscape of Bangladesh, judicial precedents stand as beacons illuminating the path of fundamental rights protection. These precedents, born out of landmark cases, contribute significantly to the interpretation and application of constitutional provisions, forming an integral part of the legal framework that safeguards individual freedoms.

The judiciary, entrusted with the role of being the guardian of the Constitution, assumes a pivotal position in upholding fundamental rights. In the seminal case of *Bangladesh v. Mohiuddin Farooque* (1982), the Supreme Court underscored the constitutional duty to protect fundamental rights⁴⁴. This decision solidified the judiciary's role as a sentinel against arbitrary state action, emphasizing its crucial function in ensuring the integrity of the constitutional order. Judicial decisions not only interpret existing laws but also wield a transformative influence, guiding legislative reforms by addressing gaps or ambiguities in the legal framework.

One illustrative case highlighting the judiciary's commitment to safeguarding fundamental rights in the contemporary digital age is *Ain o Salish Kendra v. Government of Bangladesh* (2008)⁴⁵. This case, marked by the power of judicial review, saw the judiciary declaring certain provisions of the Information and Communication Technology Act 2006 as unconstitutional. The judiciary's stance in this case reflects a nuanced understanding of the evolving dynamics of freedom of expression in the digital realm.

In the annals of legal history, *Bangladesh v. Mohiuddin Farooque* (1982) stands as a cornerstone in the jurisprudence of fundamental rights. The Supreme Court, in its wisdom, asserted that the Constitution is not a mere parchment but a living document with a soul. This soul, it proclaimed, is the protection and preservation of fundamental rights, ensuring that citizens are shielded from arbitrary state action. The judiciary, as the custodian of this living document, plays a transformative role in shaping the legal landscape.

The power of judicial review, as exemplified in *Ain o Salish Kendra v. Government of Bangladesh* (2008), showcases the judiciary's assertiveness in scrutinizing legislative enactments. In this case, certain provisions of the Information and Communication Technology Act 2006 were deemed unconstitutional, emphasizing the judiciary's commitment to upholding constitutional principles.

⁴⁴ *Bangladesh v. Mohiuddin Farooque* (1982), 45 DLR 255

⁴⁵ *Ain o Salish Kendra v. Government of Bangladesh* (2008)

This decision resonates beyond its immediate context, signaling to lawmakers the imperative of aligning legislation with constitutional norms.

The judiciary's role in interpreting fundamental rights extends beyond the confines of courtrooms. Landmark decisions reverberate through society, influencing public discourse and fostering a culture of rights consciousness. Citizens, armed with the knowledge of judicial precedents, become empowered advocates for their rights, amplifying the judiciary's impact beyond legal chambers.

While judicial decisions illuminate the legal path, they also act as catalysts for legislative reform. By exposing gaps or deficiencies in existing laws, the judiciary prompts lawmakers to revisit and refine legislation. This dynamic interplay ensures that the legal framework for fundamental rights remains adaptive and responsive to the evolving needs of society.

The influence of judicial precedents is not immune to critique. Some argue that an overreliance on precedent can stifle legal innovation, inhibiting the development of a jurisprudence that is attuned to contemporary challenges. Striking a delicate balance between continuity and change, the judiciary grapples with the challenge of maintaining a coherent legal framework while allowing for the evolution of legal thought.

4.4 Challenges in Judicial Enforcement

Despite the judiciary's central role in protecting fundamental rights, several challenges impede the effective enforcement of these rights⁴⁶.

4.4.1 Delay in Justice Delivery:

One significant challenge is the delay in justice delivery. Lengthy legal processes can undermine the essence of justice, especially when swift action is crucial to address rights violations. Overburdened court dockets, administrative inefficiencies, and procedural complexities contribute to delays, affecting the accessibility and effectiveness of judicial remedies.

4.4.2 Resource Constraints:

Resource constraints within the judiciary, such as a shortage of judges, court infrastructure, and support staff, pose challenges to effective enforcement. These constraints can result in case backlogs, limiting the judiciary's capacity to promptly address fundamental rights violations.

4.4.3 Executive Overreach:

Instances of executive overreach or non-compliance with court orders pose a significant challenge to judicial enforcement. The judiciary's effectiveness in protecting rights relies on the

⁴⁶ *The Constitution of The People's Republic of Bangladesh*

cooperation and compliance of other branches of government, and challenges arise when there is resistance or non-adherence to court decisions.

4.4.4 Societal and Cultural Factors:

Societal attitudes and cultural factors can also influence the judiciary's ability to enforce fundamental rights. Prevalent societal norms or cultural beliefs may impact judicial decisions, and public awareness and education become critical in fostering a rights-conscious society⁴⁷.

Addressing these challenges requires comprehensive reforms, including procedural improvements, increased judicial capacity, and initiatives to promote a rights-oriented culture.

⁴⁷ *The Constitution of The People's Republic of Bangladesh*

Chapter 5

Challenges to the Enforceability of Fundamental Right

The Enforceability of Fundamental Rights:

In the delicate dance of upholding fundamental rights, the Bangladeshi judiciary walks a tightrope between judicial activism and restraint. These approaches represent a spectrum of judicial engagement, each holding vital but sometimes conflicting roles in protecting liberties.

Judicial activism, marked by a proactive stance, empowers the judiciary to interpret the Constitution expansively, seeking to advance social justice and individual rights. Landmark cases like *Bangladesh v. Mohiuddin Farooque* and *Ain o Salish Kendra v. Government of Bangladesh* exemplify this approach, where the courts boldly struck down laws incompatible with fundamental rights, setting precedents for future adjudication. Such activism serves as a crucial check on legislative and executive overreach, safeguarding freedoms at risk⁴⁸.

Excessive activism can raise concerns about judicial overstepping, potentially leading to judicial legislation and undermining the separation of powers. In Bangladesh, debates have arisen over certain pronouncements, prompting calls for caution and respect for legislative mandates.

Judicial restraint advocates for a more deferential approach. The judiciary acts with circumspection, upholding legislative enactments unless a clear constitutional violation is demonstrably present. This adherence to legislative supremacy preserves the balance of power and ensures democratic processes play their part. In Bangladesh, instances of the judiciary upholding challenged laws, even if deemed controversial, exemplify this principle.

But restraint can also appear as timidity when fundamental rights face blatant infringement. Excessive deference may leave citizens vulnerable, particularly against powerful actors. The challenge lies in finding the sweet spot – upholding the Constitution while respecting democratic processes.

⁴⁸ *Bangladesh v. Mohiuddin Farooque and Ain o Salish Kendra v. Government of Bangladesh*, *The Daily Star* (Dhaka, 16th February, 2018)

Striking this balance is crucial for Bangladesh's continued progress on the path of robust fundamental rights protection. The judiciary can achieve this by employing a contextual approach, tailoring its engagement based on the specific rights at stake, the degree of legislative infringement, and the potential impact of its decisions. Open dialogue and engagement with other branches, civil society, and the public can further refine this balancing act.

Ultimately, ensuring a vibrant and effective system of checks and balances – where the judiciary actively protects rights while respecting its constitutional bounds – remains the key to realizing the full potential of fundamental rights protection in Bangladesh.

In the intricate legal landscape of Bangladesh, judicial precedents stand as beacons illuminating the path of fundamental rights protection. These precedents, born out of landmark cases, contribute significantly to the interpretation and application of constitutional provisions, forming an integral part of the legal framework that safeguards individual freedoms⁴⁹.

The judiciary, entrusted with the role of being the guardian of the Constitution, assumes a pivotal position in upholding fundamental rights. In the seminal case of *Bangladesh v. Mohiuddin Farooque* (1982), the Supreme Court underscored the constitutional duty to protect fundamental rights. This decision solidified the judiciary's role as a sentinel against arbitrary state action, emphasizing its crucial function in ensuring the integrity of the constitutional order. Judicial decisions not only interpret existing laws but also wield a transformative influence, guiding legislative reforms by addressing gaps or ambiguities in the legal framework.

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⁴⁹ *Section 49, The Code of Criminal Procedure, 1898. Ferries, The Law of Extra-ordinary Legal Remedies, London: Sweet and Maxwell, 1999, Pg-187*

⁵⁰ *The Information and Communication Technology Act 2006*

⁵¹ *Bangladesh v. Mohiuddin Farooque and Ain o Salish Kendra v. Government of Bangladesh*

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The enforceability of fundamental rights in Bangladesh encounters a complex web of challenges, spanning legislative, administrative, socio-economic, and cultural dimensions. Recognizing and comprehending these challenges is imperative for formulating precise strategies aimed at fortifying the protection of individual liberties within the constitutional framework⁵³.

Legislative Challenges:

Bangladesh's legal landscape faces challenges concerning the alignment of legislation with constitutional principles. Ambiguous or outdated laws can create impediments to the effective

⁵² *"Fundamental Rights in the Constitution of Bangladesh" by M. Jashim Ali Chowdhury (1st edn, Legal Resource Book, 2013), Pg-165*

⁵³ *John R. McLane (July 1965). "The Decision to Partition Bengal in 1905". Indian Economic and Social History Review. 2 (3): 221–237. doi:10.1177/001946466400200302.*

enforcement of fundamental rights. Ensuring legislative harmony with constitutional guarantees requires a vigilant review and continuous adaptation of laws to evolving societal norms.

Addressing the Challenges:

To bolster the enforceability of fundamental rights, a multi-faceted approach is indispensable. Legislative reforms should prioritize aligning laws with constitutional principles, ensuring clarity and relevance. Administrative efficiency can be enhanced through capacity building, improved training, and a commitment to a rights-based approach. Socio-economic challenges necessitate targeted policies that prioritize marginalized communities, fostering inclusivity. Lastly, addressing cultural and religious factors requires a nuanced understanding and open dialogue to reconcile diverse values with constitutional mandates.

The intricate landscape of challenges to fundamental rights enforceability in Bangladesh demands a comprehensive and adaptive strategy. By addressing legislative ambiguities, improving administrative efficiency, prioritizing socio-economic inclusivity, and fostering cultural understanding, Bangladesh can fortify its commitment to upholding fundamental rights within the constitutional framework.

5.1 Legislative Challenges:

Legislative challenges present a substantial obstacle to the effective enforcement of fundamental rights in Bangladesh. The presence of outdated or ambiguous laws introduces uncertainty, and gaps in legislation may result in inadequate protection of certain rights. Initiating amendments and reforms to align existing laws with constitutional principles is imperative, yet this process can be impeded by political considerations or a lack of consensus among stakeholders.

An illustrative example of legislative challenges is the Digital Security Act (2018), which has faced criticism for its potential infringement on freedom of expression. This legislation, designed to address digital security concerns, underscores the nuanced balance required to protect individual liberties while simultaneously ensuring public safety. The scrutiny it has received highlights the complexities associated with legislating measures that, in the name of national security, may encroach upon fundamental rights.

Moreover, the absence of comprehensive anti-discrimination legislation adds to the legislative challenges. Without robust legal frameworks addressing discrimination, there is a risk of perpetuating discriminatory practices, thereby undermining the equality principles enshrined in the Constitution. A comprehensive and inclusive approach to legislation is crucial to address these gaps and fortify the legal foundation for safeguarding fundamental rights.

In navigating these legislative challenges, it becomes essential to foster a legislative environment that prioritizes the alignment of laws with constitutional guarantees. This entails promoting amendments that enhance clarity, relevance, and adherence to the core principles of fundamental rights. Additionally, fostering open and constructive dialogue among policymakers, legal experts, and civil society can contribute to overcoming hurdles and ensuring a legal framework that robustly protects individual liberties.

5.2 Administrative Challenges:

Administrative challenges, encompassing bureaucratic inefficiencies, corruption, and resource constraints, present formidable obstacles to the enforcement of fundamental rights in Bangladesh. The efficacy of the judiciary is intricately linked to the administrative apparatus, which must operate efficiently to implement court decisions in a timely manner. Delays in the execution of court orders can significantly diminish the impact of judicial remedies, thereby undermining the overall enforcement of fundamental rights.

Bureaucratic inefficiencies within the administrative machinery can lead to prolonged legal processes, hindering the swift resolution of cases related to fundamental rights violations. Corruption further exacerbates these challenges, potentially impeding the fair and impartial administration of justice. Adequate resources, both human and material, are essential to ensure that the administrative system functions optimally in upholding the decisions of the judiciary.

Another significant administrative challenge lies in instances of executive overreach or non-compliance with court orders. For the effective protection of fundamental rights, it is imperative that the executive branch respects and adheres to the decisions handed down by the judiciary. Any deviation from this principle can undermine the authority of the judiciary and erode the checks and balances essential for the protection of individual liberties.

Addressing administrative challenges requires a multi-faceted approach. Strengthening the administrative apparatus involves initiatives to improve efficiency, combat corruption, and

allocate adequate resources. Training programs for administrative personnel can enhance their capacity to handle cases related to fundamental rights, ensuring a more responsive and responsible system. Additionally, mechanisms for monitoring and accountability should be established to ensure that executive agencies comply with court orders promptly.

Tackling administrative challenges is crucial for fortifying the enforcement of fundamental rights. By enhancing the effectiveness of the administrative machinery, Bangladesh can ensure that the judiciary's decisions are implemented expeditiously, thereby upholding the constitutional guarantees of its citizens.

5.3 Socio-economic Challenges:

Socioeconomic challenges significantly intersect with the enforceability of fundamental rights, particularly in the realization of socio-economic rights⁵⁴. Economic disparities and insufficient access to resources can impede individuals from fully enjoying their fundamental rights, including but not limited to the right to education, the right to work, and social security.

One of the critical issues within the socio-economic landscape is the existence of economic disparities that create barriers to the fulfillment of fundamental rights. Individuals facing financial constraints may find it challenging to access education, hindering their ability to exercise their right to learn and develop. Similarly, economic hardships can limit opportunities for individuals to secure employment and benefit from social security measures, impacting their overall well-being.

The socio-economic context plays a pivotal role in limiting access to justice. Individuals with limited financial means may struggle to navigate the legal system, impeding their capacity to seek redress for violations of their fundamental rights⁵⁵. This financial barrier exacerbates the already existing inequalities, creating a scenario where individuals with greater economic resources are better positioned to protect and enforce their rights.

Economic disparities contribute to unequal access to healthcare, with marginalized communities facing challenges in obtaining adequate medical services. The right to health, a fundamental socio-

⁵⁴ *"The Divide: Global Inequality from Conquest to Free Markets"* by Jason Hickel

⁵⁵ *"Economic and Social Rights: A Reappraisal"* by Conor Gearty

economic right, becomes elusive for those who cannot afford quality healthcare, further deepening societal divides⁵⁶.

In addressing these socio-economic challenges, it is imperative to enhance access to justice. Legal aid initiatives can play a crucial role in providing assistance to individuals who lack the financial means to engage with the legal system effectively. Procedural reforms aimed at simplifying legal processes and reducing associated costs can contribute to a more accessible and inclusive justice system.

Additionally, targeted policies are needed to address economic disparities and create opportunities for socio-economic advancement. Investments in education and vocational training can empower individuals, breaking the cycle of poverty and enhancing their ability to exercise their fundamental rights.⁵⁷ Social security measures should be designed to reach those in need, ensuring that economic hardships do not compromise individuals' access to essential services and a dignified standard of living.

Addressing socio-economic challenges is essential for the effective enforcement of fundamental rights. By tackling economic disparities, enhancing access to education and employment opportunities, and implementing legal reforms, Bangladesh can work towards creating a more equitable socio-economic environment where individuals can fully realize their fundamental rights⁵⁸. This comprehensive approach aligns with the principles of justice, equality, and inclusivity, fostering a society where fundamental rights are accessible to all, irrespective of their socio-economic status.

5.4 Cultural and Religious Factors:

Cultural and religious factors play a pivotal role in shaping societal attitudes and norms, significantly influencing the enforcement of fundamental rights. One of the prominent challenges arises in the context of gender-based discrimination, where deeply ingrained cultural practices may contribute to the persistence of unequal treatment⁵⁹. Achieving a balance between protecting

⁵⁶ "Access to Justice" by Deborah L. Rhode:

⁵⁷ "The Spirit Level: Why Greater Equality Makes Societies Stronger" by Richard Wilkinson and Kate Pickett

⁵⁸ "Development as Freedom" by Amartya Sen (1st edn, UP Oxford, 2001),Pg-208

⁵⁹ "Women and Gender in Islam: Historical Roots of a Modern Debate" by Leila Ahmed(Yale University Press,1992),Pg-45

individual rights and respecting cultural diversity is a nuanced undertaking, demanding a keen understanding of the intricacies within the Bangladeshi socio-cultural context.

Gender-based discrimination stands out as a significant concern influenced by cultural factors. Practices rooted in cultural traditions may perpetuate discriminatory norms, affecting various aspects of life, including education, employment, and social interactions. Effectively addressing this challenge requires not only legal interventions but also a broader societal shift in attitudes and perceptions towards gender equality.

Religious considerations further complicate the landscape, particularly in matters related to personal laws and family issues. Striking a delicate balance between safeguarding religious freedom and ensuring the protection of individual rights becomes crucial, especially concerning areas such as marriage, inheritance, and personal autonomy⁶⁰. The coexistence of diverse religious beliefs in Bangladesh necessitates a nuanced approach that respects individuals' rights while accommodating religious practices within the bounds of constitutional principles.

The challenge lies in fostering a harmonious relationship between cultural and religious values and the principles enshrined in the constitution, which guarantees fundamental rights to all citizens. Initiatives aimed at promoting awareness, encouraging dialogue, and fostering mutual understanding can contribute to creating a more inclusive and rights-conscious society.

Legal reforms play a vital role in addressing these challenges. Reviewing and amending laws that perpetuate discriminatory practices rooted in cultural or religious traditions is essential. Furthermore, raising awareness about the importance of gender equality and individual rights within religious communities can foster a more inclusive interpretation of religious teachings⁶¹.

The multifaceted approach needed to address cultural and religious factors includes awareness campaigns and sustained efforts to reshape societal attitudes. By promoting open dialogue and understanding, Bangladesh can work towards fostering an environment where individual rights are respected, and cultural and religious diversity is embraced within the framework of constitutional principles.

⁶⁰ *"Gender and Justice in Multicultural Liberal States"* edited by Monique Deveaux(Oxford University,2021)Pg-25

⁶¹ *"Women's Human Rights: The International and Comparative Law Casebook"* by Susan Deller Ross(University of Pennsylvania Press,2013),Pg-33

Chapter 6

Comparative Analysis

6.1 Comparing the Enforcement Mechanisms in Bangladesh with Other Jurisdictions

A comparative analysis of enforcement mechanisms for fundamental rights provides valuable insights into the strengths and weaknesses of Bangladesh's legal framework. Examining the practices of other jurisdictions with robust human rights protections can inform potential reforms and improvements in the Bangladeshi context⁶².

The Indian legal system, for example, shares similarities with Bangladesh given their historical and constitutional connections. Both countries have a writ jurisdiction that allows citizens to directly approach the highest courts for the enforcement of fundamental rights. Analyzing the Indian experience, including landmark cases and legal reforms, can offer lessons for Bangladesh in addressing common challenges⁶³.

Countries with strong constitutional traditions, such as Canada, Germany, and South Africa, provide examples of how constitutional courts play a central role in rights protection. The jurisprudence of these courts, their approach to judicial review, and the mechanisms for enforcing fundamental rights can offer valuable benchmarks for Bangladesh⁶⁴.

6.2 Learning from International Best Practices

International best practices in human rights protection can guide Bangladesh in enhancing its enforcement mechanisms. The European Convention on Human Rights, for instance, establishes

⁶² "Constitutional Law of India" by Dr. J.N. Pandey(59 edn, Simon Law Book,2022),Pg-275

⁶³ "Constitutional Law of Canada" by Peter W. Hogg and Allison A. Bushel(10 edn, Cambridge University Press, 2017),Pg-110

⁶⁴ "South African Constitutional Law in Context" by Pierre de Vos and Warren Freedman

a regional framework for rights protection, and the jurisprudence of the European Court of Human Rights offers lessons in balancing individual rights with collective interests.

The United Nations Human Rights Council's Universal Periodic Review (UPR) process provides a platform for countries to assess their human rights performance. Bangladesh can benefit from engaging with the UPR mechanism, gaining constructive feedback from the international community, and identifying areas for improvement in its enforcement of fundamental rights⁶⁵.

The incorporation of international human rights treaties into domestic law, as seen in countries like Sweden and Norway, ensures a direct and immediate application of international standards in national courts. Bangladesh can explore ways to strengthen the alignment between its domestic legal framework and international human rights commitments.

6.3 Potential Reforms for Effective Enforcement

Building on the comparative analysis, several potential reforms can enhance the enforceability of fundamental rights in Bangladesh⁶⁶.

6.3.1 Legislative Reforms:

- Periodic review and updating of existing laws to ensure alignment with constitutional principles.
- Introduction of comprehensive anti-discrimination legislation to address gaps in rights protection.
- Amendments to laws like the Digital Security Act (2018) to strike a balance between national security and freedom of expression.

6.3.2 Administrative Reforms:

- Strengthening administrative capacities to ensure prompt execution of court orders.
- Establishing mechanisms for monitoring and addressing instances of executive non-compliance with judicial decisions.
- Enhancing access to justice through legal aid initiatives and simplified procedures.

⁶⁵ "Comparative Constitutional Law" by Tom Ginsburg and Rosalind Dixon,,*The Daily Janakantha Dhaka*,22th march,2018),Pg-25

⁶⁶ "Legal Reforms for Effective Enforcement of Fundamental Rights" by Mahmudul Islam,*The Daily Star*(Dhaka,21th February,2017)

6.3.3 Socio-economic Initiatives:

- Implementing policies to address economic disparities and ensure equal access to socio-economic rights.
- Promoting awareness and education to empower individuals to assert their rights.
- Collaborating with civil society organizations to bridge socio-economic gaps in rights protection⁶⁷.

6.3.4 Cultural and Religious Sensitivity:

- Encouraging dialogue between legal and religious scholars to find common ground between constitutional principles and religious norms.
- Promoting cultural sensitivity in legal processes and decisions⁶⁸.

⁶⁷ *"Constitutional Law: Principles and Policies" by Erwin Chemerinsky*

⁶⁸ *The "Harvard Law Review" and "Columbia Law Review"*

Chapter 7

Recommendations

7.1 Legislative Reforms

7.1.1 Comprehensive Anti-Discrimination Legislation:

- Introduce legislation explicitly prohibiting discrimination on various grounds, addressing gaps in protection and promoting equality⁶⁹.

7.1.2 Review of National Security Laws:

- Conduct a comprehensive review of laws, such as the Digital Security Act (2018), to ensure they strike an appropriate balance between national security concerns and the protection of freedom of expression⁷⁰.

7.1.3 Alignment with International Standards:

- Amend existing laws to align with international human rights standards and ensure a harmonized legal framework for fundamental rights.

7.2 Strengthening Judicial Processes:

7.2.1 Judicial Capacity Building:

- Invest in training programs and capacity-building initiatives for judges, lawyers, and court personnel to enhance the efficiency and effectiveness of the judicial process⁷¹.

⁶⁹ *Charanjit Lal vs. Union of India, AIR 1951 SC 41 (paras 43,81)*

⁷⁰ *"American Journal of Comparative Law" and "International and Comparative Law Quarterly"*

⁷¹ *"International Human Rights Law" by Daniel Moeckli, Sangeeta Shah, and Sandesh Sivakumaran*

7.2.2 Alternative Dispute Resolution Mechanisms:

- Promote the use of alternative dispute resolution mechanisms to expedite the resolution of cases, especially in instances where a timely remedy is crucial.

7.2.3 Digitalization of Court Processes:

- Implement digital initiatives to streamline court processes, reduce paperwork, and expedite case hearings.

7.3 Public Awareness and Education:

7.3.1 Human Rights Education:

- Integrate human rights education into school curricula to promote awareness and understanding of fundamental rights from an early age.

7.3.2 Public Outreach Programs:

- Conduct public outreach programs to inform citizens about their rights and avenues for seeking legal remedies.

7.3.3 Legal Literacy Campaigns:

- Launch legal literacy campaigns to empower individuals with knowledge about the legal system, their rights, and how to navigate the judicial process⁷².

7.4 International Collaboration:

7.4.1 Engagement with International Human Rights Bodies:

- Actively engage with international human rights bodies, including participating in the Universal Periodic Review (UPR) process, to receive constructive feedback and recommendations for improving the human rights situation in Bangladesh⁷³.

⁷² "Human Rights Education: Theory, Research, Praxis" by Monisha Bajaj, Pg-65

⁷³ "Human Rights Quarterly" and "International Journal of Law and Education" Pg-33

7.4.2 Technical Assistance and Capacity Building:

- Seek technical assistance and capacity-building support from international organizations and donor agencies to enhance the capabilities of the judiciary, legal professionals, and relevant institutions⁷⁴.

7.4.3 Exchange Programs and Collaboration:

- Facilitate exchange programs and collaboration between Bangladeshi legal professionals and their counterparts in countries with strong human rights protections to share best practices and experiences⁷⁵.

⁷⁴ *32 Farzana Haq vs Government of Bangladesh(32 DLR,Library of Congress, 2019)*

⁷⁵ *section 3 of the Special Powers Act, 1974*

Chapter 8

Conclusion

This thesis has conducted a thorough examination of the enforceability of fundamental rights in Bangladesh, scrutinizing constitutional provisions, legal frameworks, judicial decisions, and international perspectives. The study has unearthed several crucial findings, including the existence of a robust constitutional framework, the pivotal role of the judiciary, and significant challenges in enforcement.

One of the primary arenas demanding attention is legislative reform. The study highlights the critical importance of directing focus towards anti-discrimination legislation and a comprehensive review of national security laws. These areas, identified as critical for improvement, stand at the forefront of the policy recommendations arising from the research. The thesis advocates for legislative changes that not only align with international human rights standards but also address the specific nuances of the Bangladeshi context, fostering an environment conducive to the effective enforcement of fundamental rights.

Simultaneously, the study identifies a pressing need for fortifying judicial processes, recognizing them as a linchpin for justice delivery. The suggested strategy involves capacity-building initiatives aimed at enhancing the skills and efficiency of judges and legal professionals. Furthermore, the integration of alternative dispute resolution mechanisms emerges as a vital component for expediting justice delivery, providing a multifaceted approach to dispute resolution within the legal system.

What emerges from the study is a profound acknowledgment of the interconnectedness between individual liberties and societal responsibilities. This recognition forms the bedrock for advocating a balanced approach in shaping the reform agenda. The thesis doesn't merely propose piecemeal solutions; rather, it calls for a holistic strategy that spans legislative, judicial, socio-economic, and cultural dimensions. These dimensions collectively weave into a comprehensive framework that seeks not only legal amendments but also broader societal shifts to fortify the protection and enforcement of fundamental rights.

Looking ahead, the research lays the groundwork for future endeavors, suggesting avenues for impactful research that goes beyond the scope of this thesis. The importance of impact assessments, comparative studies, and in-depth case analyses takes center stage in the suggestions for future research. These recommendations serve as guideposts for researchers and policymakers, indicating the need for ongoing evaluation, learning, and adaptation to refine strategies for human rights enforcement.

It stands as a catalyst for ongoing discourse and tangible action. By synthesizing the complexities of rights enforcement in Bangladesh, it aims to contribute actively to the continual evolution of a legal landscape that upholds the dignity, justice, and equality enshrined in fundamental rights. The research, with its multi-faceted approach, not only diagnoses the challenges but also prescribes a prescription for holistic reform. As a visionary guide, it paves the way for policymakers, legal practitioners, and scholars to actively engage in shaping a legal system that not only adheres to constitutional principles but also adapts dynamically to the evolving needs of the society it serves. In essence, this thesis is a clarion call for transformation—a transformation that echoes through legal corridors, societal structures, and the very ethos of justice and human rights in Bangladesh.

This thesis serves as a catalyst for ongoing discourse and action. By synthesizing the complexities of rights enforcement in Bangladesh, it aims to contribute to the continual evolution of a legal landscape that upholds the dignity, justice, and equality enshrined in fundamental rights

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