



“Protection of Civil And Political Rights: Bangladesh Perspective”

A thesis submitted in partial fulfilment of the requirements for the award of degree of LL. B (Hon's), Faculty of Arts and Humanities, Department of Law under Sonargaon University.

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ABSTRACT

This paper provides a comprehensive analysis of the protection of civil and political rights within Bangladesh's legal framework and societal context. It explores the evolution of these rights from a historical perspective, emphasizing constitutional provisions, legislative developments, and judicial interpretations. Key topics include the implementation challenges faced in ensuring these rights, the role of international human rights standards, and the impact of socio-political dynamics on rights protection. By examining case studies and relevant legal precedents, the study offers insights into the effectiveness of current mechanisms and proposes recommendations for strengthening the protection of civil and political rights in Bangladesh.

Keywords: Civil rights, political rights, Bangladesh, human rights, constitutional law

To Almighty Allah.

**Thanks for -being kind to this slave
-giving me the curiosity to seek knowledge,
-giving me the strength to remain steadfast in the goal.**

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DECLARATION

I, **Md. Nirob Hosen**, holding ID No- LL.B1803015016, a student of LL. B Program Department of Law of ‘Sonargaon University’; do hereby declare that the research monograph titled, **“Protection of Civil And Political Rights: Bangladesh Perspective”** is an original work of mine.

The assigned task has done by me for partial requirement of my LL. B degree, as a part of academic curriculum. I certify that this thesis does not incorporate without acknowledgment any material previously submitted for a degree or diploma in any university; and that to the best of my knowledge and belief it does not contain any material previously published or written by another person except where due reference is made in the text.

I also declare that the work presented does not breach any existing copyright and no portion of this research monograph has been copied entirely from any work done earlier for a degree or otherwise.

Researcher

Md. Nirob Hosen

CERTIFICATION BY THE SUPERVISOR

This is to certify that the Research Monograph titled “**Protection of Civil And Political Rights: Bangladesh Perspective**” submitted by **Md. Nirob Hosen (ID No: LLB 1803015016)** in partial fulfilment of the requirements for the award of the Graduate Degree in Law from Sonargaon University, under my supervision and guidance. It is also to be certified that no part of this Research Monograph has been submitted or published anywhere earlier.

I also declare that the presented work does not breach any existing copyright and no portion of this research monograph has been copied entirely from any work done earlier for a degree or otherwise.

Research Supervisor

Md. Abdul Alim

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ACRONYMS

AD- Appellate Division

AI- Amnesty International

AIR- All India Reporter

AIR(SC)- All India Reporter (Supreme Court)

ASK- Ain o Salish Kendra

Art.- Article

ASK- Ain o Salish Kendra

CJ- Chief Justice

CPC- The Code of Civil Procedure

CrPC- The Code of Criminal Procedure

DLR- Dhaka Law Reports

ed. – Edition

HCD- The High Court Division

HRPB- Human Rights And Peace for Bangladesh

HRW- Human Rights Watch

ibid.- is a Latin word, short for *ibidem*, which means *the same place*

ICCPR- International Covenant on Civil and Political Rights

ICSPPR- Inter-University Consortium for Political and Social Research

ICT- Information and Communication Technology

IHRO- International Human Rights Organizations

J- Justice

OHCHR- The United Nations High Commissioner for Human Rights

P.- Page

SC- The Supreme Court

SPA- Special Powers Act

UN- United Nations

UDHR- The Universal Declaration of Human Rights

v/vs- Versus

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CHAPTER-1

INTRODUCTORY REMARKS

1.1 INTRODUCTION

Civil rights are legal safeguards for people or groups against certain forms of oppression that acquired popular support in the second half of the twentieth century and have continued into the twenty-first. Part 2 and 3 of the constitution of Bangladesh Discussion about the Civil and Political Rights, Article 8 to 47 Discussion about the all civil and political right that also called the fundamental rights. These are frequently veiled in foundational or origin topics, which have an abstract, timeless character to them. The prohibition of discrimination based on race, ethnicity, religion, or gender; the right to personal security, including protections for those accused or suspected of crimes; the right to vote and participate in democratic political processes; and the freedom of expression, association, and religion are among the most common civil rights. If civil rights are not available to all people, they lose their meaning. However, the failure to recognize conflicting rights and the interdependence of rights, interests, advantages, and expectations has made acceptance of civil rights advancements more difficult than it needs to be.

1.2 METHODOLOGY

The research methodology chosen for this article is qualitative & non-doctrinal in nature. To establish this research to be an authentic, reliable & well accepted piece of work to all, I've broadly relied on both primary & secondary sources. For primary sources, this article utilizes a vast number of judicial decisions has also been critically observed. As secondary source I've had the help of the constitutions of many countries of the world, books from national & international authors, documentaries, law directives, journals, newspapers & conversation of Parliamentary Sessions.

1.3 OBJECTIVES

The key objective of a study titled "Protection of Civil And Political Rights: Bangladesh Perspective" would typically be:

To assess the current state of civil and political rights protection in Bangladesh and identify opportunities for improvement.

1.4 LIMITATION

Although the study has reached its aims, there were some unavoidable limitations and shortcomings. Firstly, I am a mediocre quality student who am about to complete LL. B Degree, & I am also an amateur researcher in the field of research. Therefore, it was a tough task to assess the objectives of this research perfectly within given time period (which was so short time-limit). Besides, all the data I used in this study is mostly self-reported that is limited by the fact that it can rarely be independently collected or verified.

1.5 CONCLUSION

The study on the "Protection of Civil And Political Rights: Bangladesh Perspective" underscores both achievements and challenges. While Bangladesh has made strides in legal frameworks and awareness, significant gaps persist in implementation and enforcement. Addressing these gaps through targeted reforms, enhancing institutional capacities, and fostering greater public participation are crucial steps towards ensuring robust protection of civil and political rights in Bangladesh. Efforts must focus on aligning national practices with international standards, thereby promoting a fair, just, and inclusive society for all citizens.

CHAPTER-2

CONCEPT, UNDERSTANDING & ADOPTION OF RIGHTS

2.1 Introduction

In recent decades, Bangladesh has undergone significant socio-political transformations, marked by strides towards democratization and economic development. Central to this progress is the protection and promotion of civil and political rights, fundamental pillars of a democratic society. This study delves into the "Protection of Civil And Political Rights: Bangladesh Perspective," aiming to critically assess the current landscape, challenges, and opportunities within this vital domain.

Civil and political rights encompass a broad spectrum of liberties and entitlements, ranging from freedom of expression and assembly to the right to a fair trial and participation in governance. They are enshrined in both Bangladesh's Constitution and international human rights instruments, reflecting a commitment to uphold individual freedoms and ensure accountability of state actors.

Despite these legal frameworks, the practical realization of civil and political rights in Bangladesh faces multifaceted challenges. These include institutional weaknesses, political pressures, socio-economic disparities, and cultural barriers, which often impede effective implementation and protection. Instances of human rights violations, restrictions on media freedoms, and limitations on civic engagement underscore persistent concerns that demand careful examination.

Moreover, Bangladesh's journey towards strengthening civil and political rights intersects with broader regional and global contexts. Comparative analyses with neighboring countries and international standards provide valuable insights into best practices and areas needing improvement. Understanding these dynamics is essential for crafting informed policies and strategies that can enhance the safeguarding of rights and liberties for all Bangladeshis.

By exploring these complexities, this study seeks to contribute to ongoing discourse and efforts aimed at advancing civil and political rights in Bangladesh. Through rigorous analysis and evidence-based recommendations, it aims to foster a more inclusive and rights-respecting society, where every individual can fully exercise their freedoms and participate meaningfully in shaping the nation's future.

2.2 Civil And Political Rights

Protection from discrimination on the basis of sex, race, sexual orientation, national origin, color, age, political affiliation, ethnicity, social class, religion, and disability; and individual rights such as privacy and freedom of thought, speech, religion, press, assembly, and movement are all examples of civil rights. Civil and political rights which that defend people's freedom from government, social organizations, and private persons infringing on it. They guarantee one's right to engage in society and the state's civil and political life without fear of discrimination or repression. The right to seek protection or a legal remedy; and civil society and political participation rights, such as freedom of association, the right to assemble, the right to petition, the right to self- defense, and the right to vote.

Civil and political rights are the foundation and most important aspect of international human rights.¹ There are some specific civil and political rights according to the International Covenant on Civil and Political Rights (ICCPR) 1966 these are –

- Birthright over polity
- Ensure citizen's ability of full
- Participation in the field
- Removes discrimination
- Protect the freedom
- Civil rights include ensuring physical fundamental
- Integrity, life & safety
- Political rights include natural justice in law

2.3 Adoption of Civil & Political Rights Under Bangladesh Constitution

According to the constitution of Bangladesh - The state's major purpose shall be to construct a socialist society free of exploitation through democratic means - a society in which all citizens have access to the rule of law, fundamental human rights and freedoms, political, economic, and social equality and justice." Part III of the Constitution of the People's Republic of Bangladesh addresses fundamental rights (articles 26 to 47A). Our

¹ en.wikipedia.org

constitution, in fact, provides 18 fundamental rights, running from articles 27 to 44. All of these rights are called the civil and political rights.²

Examples of Civil and Political Rights under the Constitution of Bangladesh include -

- ❖ Right to life
- ❖ Equality before law and non-discrimination
- ❖ Freedom from arbitrary arrest and detention
- ❖ Freedom of assembly and association
- ❖ Freedom of movement
- ❖ Freedom of expression
- ❖ Right to effective judiciary
- ❖ Right to marriage and family
- ❖ Right to nationality
- ❖ Right to privacy
- ❖ Right to property
- ❖ Freedom of religion³

These provisions in Part III of the Constitution of the People's Republic of Bangladesh aim to uphold and protect the fundamental rights and freedoms of its citizens, ensuring a just and equitable society.

2.4 Conclusion

In conclusion, Bangladesh has made significant strides in its socio-political landscape, emphasizing democratization and economic development alongside the protection and promotion of civil and political rights. Despite the constitutional guarantees and international commitments, the practical realization of these rights faces formidable challenges including institutional weaknesses, political pressures, socio-economic disparities, and cultural barriers. These hurdles manifest in human rights violations, restrictions on media freedoms, and limitations on civic engagement, highlighting critical areas for improvement.

² Part 3 of the Constitution of the People's Republic of Bangladesh.

³ Part III of the Constitution of the People's Republic of Bangladesh.

Moving forward, Bangladesh's commitment to enhancing civil and political rights must navigate complex regional and global dynamics while drawing on comparative analyses and international standards. By addressing these challenges through informed policies and strategies, Bangladesh can foster a more inclusive and rights-respecting society. This study aims to contribute to ongoing efforts by providing rigorous analysis and evidence-based recommendations, thereby empowering individuals to fully exercise their freedoms and participate meaningfully in shaping the nation's future.

CHAPTER- 3

FUNDAMENTAL RIGHTS UNDER CONSTITUTION OF BANGLADESH

3.1 INTRODUCTION

The Constitution of Bangladesh exemplifies a deep-seated commitment to safeguarding and advancing the fundamental rights of its citizens. By enshrining these rights within its legal framework, Bangladesh ensures that every individual can live with dignity, freedom, and security. This comprehensive legal protection highlights the nation's dedication to upholding human rights and fostering a just and equitable society.

Civil rights, as stipulated in the Constitution, include the right to life and personal liberty, ensuring that every individual can live consistently with human dignity and decency. Articles 31 and 32 specifically emphasize that no person shall be deprived of life or personal liberty except in accordance with the law, underscoring the inviolability of these essential human rights.

Economic rights are equally prioritized, with the Constitution recognizing the right to work and the right to property. These provisions underscore the importance of economic security and opportunity in achieving a decent standard of living for all citizens. The right to work is fundamental, reflecting the nation's commitment to ensuring that every capable citizen has the opportunity to earn a livelihood and contribute to society.

Political rights are integral to the Constitution, promoting democratic governance and active participation in public life. The right to vote, the right to run for public office, and the freedom to form political parties ensure that citizens can freely express their political will and influence the direction of their government. Articles guaranteeing freedom of assembly, association, and expression further reinforce these political freedoms, ensuring a vibrant and participatory democracy.

The Constitution also upholds freedom of religion, allowing individuals to profess, practice, and propagate their faith freely. This commitment to religious freedom is a cornerstone of Bangladesh's dedication to pluralism and tolerance.

3.2 CIVIL RIGHTS

Right to Life: Article 31 of the Constitution guarantees the right to life and personal liberty." Article 31 means something more than mere animal existence;" it includes the right to live consistently with human dignity and decency, the right to the bare necessities of life, and all

that which gives meaning and content to one's life including his tradition, culture and heritage.⁴

Article 32 of the Constitution provides that “no person shall be deprived of life or personal liberty save in accordance with law.”⁵ Although deprivation can be covered by interpreting Article 31 in right perspective, the framers of the Constitution, given the seriousness of deprivation, thought fit to include a separate article limiting the deprivation of human life.

According to section 26 Part III of the Constitution of the People's Republic of Bangladesh All existing law inconsistent with the provisions this act shall be void The State shall not make any inconsistent law with any provisions of the the fundamental rights.

No Discrimination Against any Citizen - According to article 27 State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth. And all aspects of the State and public life, women must have equal rights to men.

Discrimination on grounds of religion, etc.: Article 27 of the Bangladesh Constitution provides that all citizens are equal before law and are entitled to equal protection of law. Article 28(1) of the Constitution provides that state shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth.

So, this is clear that an act of unjust or unequal treatment has not been envisaged as discrimination unless relatable to the distinction made on the grounds of religion, race, caste, sex, and place of birth. In other words, an act of discrimination among others should not entail aspects of unjust or unequal treatment, but every unjust or unequal treatment per se is not discrimination.

For Example: High Court Division in the HRPB v. Jatiyo Sangsad⁶ held that section 32Ka of the Anti- Corruption Commission Act, 2004 was discriminatory because it created unjust classification (Para 26). The Court explained that the requirement of having prior sanction from the government to prosecute judges, magistrates or public servants for corruption under section 32Ka is inconsistent with article 27 of the Constitution, which provides that all laws should be non-discriminatory and reasonable (Para 30).

⁴ Mahmudul Islam, Constitutional Law of Bangladesh (Dhaka: BILIA, 1995), 163.

⁵ The constitution of Bangladesh

⁶ 67 DLR (2015) 191

Protection of right to life and personal liberty : According to article 32 of the Bangladesh Constitution provides that ‘No person shall be deprived of life or personal liberty save in accordance with the law.’⁷

But The constitution also contains some laws that allow the military to violate human rights. These laws are –

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

Arrest and Detention: The Constitution recognizes that 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, and therefore, stipulates that no action detrimental to the life, liberty, body, reputation or property of any person shall 31 be taken except in accordance with law.⁸ It is also guaranteed in the Constitution that no person who is arrested shall be detained in custody without being informed of the grounds for such arrest, nor shall she be denied the right to consult and be defended by a legal practitioner of her choice.⁹ The Constitution also stipulates that “[e]very person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty four hours of such arrest, [...] and no such person shall be detained in custody beyond the said period without 33 the authority of a Magistrate”.¹⁰ The relevant provisions of the Code of Criminal Procedure (CrPC) as well as judicial decisions dealing with the rights of arrested persons conform to this constitutional standard.

For example, Section 60 of the CrPC stipulates that a police- officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions relating to bail, take or send the arrested person before a judicial Magistrate or the officer-in-charge of a police station.¹¹ Similarly, Section 61 puts restriction on detaining any person for more than 24 hours, unless a judicial Magistrate issues a special order to extend the duration of the detention under Section 167. The detention mentioned in this section means continuous

⁷ Article 32 The Constitution of the People’s Republic of Bangladesh.

⁸ Articles 31 and 32 of the Constitution of Bangladesh.

⁹ Article 33 (1) of the Constitution of Bangladesh.

¹⁰ Article 33 (2) of the Constitution of Bangladesh.

¹¹ Abdur Rahman vs. the State, 29 DLR 256 SC.

detention. When the 24- hours detention and the additional time necessary to bring an accused before a Magistrate allowed by this section and the 15 days additional detention allowed by Section 167 expire, an accused must either be released by the police upon security, or the accused must be forwarded under custody to a Magistrate who is empowered to take cognizance of the offence upon a police report.¹²

Under Section 167, when the Magistrate considers that further detention is necessary for investigation, she is required to apply her judicial mind to determine whether the circumstances justify detention of the accused in police custody. Police custody being an infringement of liberty should not be ordered as a matter of course. If detention in police custody is ordered, the Magistrate must record the reasons for such a decision. While in police custody, an accused is entitled to have interviews with legal advisers and also to have food and clothing supplied by relatives.

In cases of preventive detention, the Constitution prohibits the detention of a person for a period exceeding six months unless an Advisory Board consisting of three persons, of whom two shall be persons who are, or have been, or are qualified to be appointed as, Judges of the Supreme Court and the other shall be a person who is a senior officer in the service of the Republic, has, after affording him an opportunity of being heard in person, reported before the expiration of the said period of six months that there is, in its opinion, sufficient cause for such detention.¹³ It is mandatory that the authority making the order of preventive detention shall, as soon as may be, communicate to the detainee the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order.¹⁴ These provisions are translated into the Special Powers Act, 1974.

Safeguards as to arrest and detention: According to article 33 of the Bangladesh Constitution provides that ‘No one who has been arrested should be held in custody without being told of the reasons for their detention as quickly as possible, nor should they be denied the opportunity to consult and be represented by a lawyer of their choice. Every person who is arrested and detained in custody must be brought before the nearest magistrate within twenty-four hours of their arrest, excluding the time required to travel from the place of arrest to the magistrate's Court, and no such person may be held in custody beyond that time

¹² Section 167 of the CrPC only authorises the Magistrate to make an order with regard to detention of the accused in such custody as he thinks fit and that too for a term not exceeding 15 days on the whole. Unless the accused is brought before the Court, no remand order can be passed.

¹³ Article 33 (4) of the Constitution of Bangladesh.

¹⁴ Article 33 (5) of the Constitution of Bangladesh.

without the permission of a magistrate. But this Law will not be applicable in the case of those person whom has been arrested Under Section 54 of criminal code of procedure 1898.¹⁵

Right to Political Participation: The Constitution not only declares democratic governance as one of the fundamental principles of State policy¹⁶, but also stipulates that “the Republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed and in which effective participation by the people through their elected representatives in administration at all levels shall be ensured.”

Freedom of Assembly and Association: In conformity with the international standard, the Constitution also guarantees freedom of movement, freedom of assembly, and freedom of association. According to Article 36, every citizen shall have the right to move freely throughout the country, to reside and settle in any place therein and to leave and re-enter Bangladesh, subject to any reasonable restrictions imposed by law in the public interest. Subject to similar restrictions, every citizen is guaranteed the right to assemble and to participate in public meetings and processions peacefully.¹⁷ Similarly, citizens also have the right to form associations or unions, subject to certain reasonable restrictions imposed by law.¹⁸

Freedom of Expression: While the right to assemble or to form associations ensures active participation in any political as well as non-political social process, the freedom of thought and conscience and of speech often engenders the opportunity for creating the context and rationale for such participation. Accordingly, in light of the ICCPR, freedom of thought and conscience is guaranteed in the Constitution.¹⁹ Besides, subject to reasonable restrictions imposed by law, freedom of speech and expression, and freedom of the press, are also guaranteed as fundamental rights of every citizen.²⁰

Freedom of Religion: Freedom of religion, in the form of the right to profess, practice, or propagate any religion, and also to establish, maintain and manage respective religious institutions by every religious community or denomination, is also enshrined in the

¹⁵ Article 33 (1)(2)(3) The Constitution of the People’s Republic of Bangladesh.

¹⁶ Article 11 of the Constitution. See also, the preamble, and articles 7 (1) and 59 (1) of the Constitution.

¹⁷ Article 37 of the Constitution of Bangladesh.

¹⁸ Article 38 of the Constitution of Bangladesh.

¹⁹ Article 39 (1) of the Constitution.

²⁰ Article 39 (2a) of the Constitution.

Constitution.²¹ The same provision also protects all individuals from compulsory attendance in ceremony or worship, or compulsory education in any religion other than their own.

Surprisingly, the Constitution also declares Islam to be the state religion. The Supreme Court's Appellate Division concluded in February 2010 that the Constitution's Fifth Amendment was unconstitutional. The Fifth Amendment, which was ratified in 1979, repealed a prior legislation prohibiting religiously motivated unions, organizations, or parties, and stated that all people had the freedom to organize a union, association, or party for whatever reason they like. The verdict reinstated professed secularism in the Constitution and formally outlawed Islamic political parties; nevertheless, the administration stated that the ban would not be strictly enforced. Nonetheless, the issue was debated at the highest levels of government, and following the Fifteenth Amendment, the Constitution included competing standards of Islam as the State- religion and secularism.

Furthermore, anyone who has a 'deliberate' or 'malicious' goal of hurting religious sensibilities is subject to imprisonment under the Penal Code. Furthermore, the Code of Criminal Procedure provides that "the government may seize all copies of a publication if it publishes anything that incites animosity and hatred among citizens or disparages religious beliefs."

3.3 ECONOMIC RIGHTS

Right to Work : The right to work is necessary for a good life and the fulfillment of a person's diverse demands. Every modern state strives to ensure that its citizens have the right to work. 'Work is a right, a duty and a matter of honour for every citizen who is capable of working, and everyone shall be paid for his work on the basis of the principle "from each according to his abilities, to each according to his work".²²

Right to Property:

The right to own property is as inherent to man as the right to have a family. It refers to the right to keep excess wealth or money and use it to buy immovable or mobile property. Property aids in the advancement of culture and civilization. The right to property follows naturally from the right to decent earnings. "Subject to any restrictions imposed by law, every citizen shall have the right to acquire, hold, transfer or otherwise dispose of property, and

²¹ Article 41 of the Constitution. of Bangladesh.

²² Article 20 The Constitution of the People's Republic of Bangladesh.

property shall be compulsorily acquired, nationalized or requisitioned save by authority of law.’²³

Right to Economic and Social Security: Citizens in a modern welfare state have the right to economic and social security. In the event of old age, disease, unemployment, and so on, the state offers security. Most states provide old age pensions, unemployment benefits, provident fund payments, and financial assistance in the event of diseases, accidents, or natural disasters. “PREAMBLE of the Bangladesh it Constitution shall be a fundamental aim of the State to realise through the democratic process a socialist society, free from exploitation a society in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social, will be secured for all citizens.’²⁴

3.4 POLITICAL RIGHTS:

Right to Vote: Every adult citizen in a democratic state has the right to vote. Citizens elect their preferred government by exercising their right. Adults (those over the age of 18) are the only ones who have this right.) if he or she “(a) is a citizen of Bangladesh; (b) is not less than eighteen years of age.’²⁵

Right to get elected: Every person in a democratic state has the right to be elected to any public office. He can run for and be elected to a legislature, municipal corporation, municipal committee, or panchayat. However, there are several requirements for running for office.

Right to get elected: Every person in a democratic state has the right to be elected to any public office. He can run for and be elected to a legislature, municipal corporation, municipal committee, or panchayat. However, there are several requirements for running for office.

Right to Hold Public Office: After being elected as representatives of the people, citizens have the right to occupy public office. When determining qualifications, no prejudice is made, and special effort is taken to ensure that only qualified candidates are elected. “(1) There shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic.²⁶

²³ Article 42(1) The Constitution of the People’s Republic of Bangladesh.

²⁴ PREAMBLE of the People’s Republic of Bangladesh.

²⁵ Article 122 The Constitution of the People’s Republic of Bangladesh.

²⁶ Article 29(1) The Constitution of the People’s Republic of Bangladesh.

(2) No citizen shall, on grounds only of religion, race, caste, sex or place of birth, be ineligible for, or discriminated against in respect of, any employment or office in the service of the Republic.²⁷

Right to Petition: Citizens have the right to petition, and they can submit applications to the authorities for redress of their problems individually or collectively.

Right to Form Political Parties: People have the right to form political parties in every democratic state and to participate in the political process through them. '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.'²⁸

Right to oppose the Government: Bangladeshi citizens have the right to challenge the government if it fails to protect their interests. However, such resistance must be peaceful and carried out in accordance with the law. All of these civil, economic, and political rights are provided and guaranteed by the state, namely by a democratic state, to all of its citizens without exception. "(a) the right of every citizen to freedom of speech and expression; and (b) freedom of the press, are guaranteed."²⁹

Right to life and human dignity: "Everyone has the right to life, liberty, and security of person,"³⁰ according to Article 32 of Bangladesh's Constitution. The right to life is under attack from a variety of sources, including arbitrary police or security force action, as well as poor or non-enforcement of safety laws and regulations. As a result, the right to life includes the right to dignity.

As a result, the rights to dignity and life are inextricably linked. The right to life is more than just a right to exist; it is also a right to be treated with respect as a human being: without dignity, human life is significantly weakened. There can be no dignity without life.

The state has an added obligation to protect the right to life of those within its care or custody, for example in mental hospitals, police stations, detention centres and correctional facilities. In 2016, the Office of the United Nations High Commissioner for Human Rights (OHCHR) announced that the UN Human Rights Committee had commenced its public discussion on

²⁷ Article 29(2) The Constitution of the People's Republic of Bangladesh.

²⁸ Article 38 The Constitution of the People's Republic of Bangladesh.

²⁹ Article 39(2) The Constitution of the People's Republic of Bangladesh.

³⁰ The Constitution of the People's Republic of Bangladesh.

the draft General Comment on Article 6 of the ICCPR on the right to life.³¹ Each country's constitution is the guardian of its citizens' fundamental human rights. The government has a legal and constitutional responsibility to protect such rights.

Articles 31 and 32 of Bangladesh's constitution ensure the protection of the 'Right to Life.' "Each and every human being has an inalienable right to life. "every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of this right"³² . 'The right to life, as defined by Art.31, refers to more than only the existence of animals. Because no one can survive without a means of subsistence, it incorporates the right to livelihood. This was my earlier understanding of the term 'right to life.' However, in recent years, Bangladesh's constitutional jurisprudence on the meaning of the 'right to life' has altered. The current belief is that the right to life includes the right to live in a manner that is consistent with human dignity and decency.

Let's see some landmark judgment about the expanding meaning of 'right of life'. In the famous case *Ain O Salish Kendra Vs Bangladesh*, 1999 BLD 488,³³ it was declared that when rootless people have been taken shelter in slums (basti) and somehow making a livelihood, their wholesale eviction without any scheme of their rehabilitation has been found to offend the right to life (art.31 & 32).

In the other very recent milestone case *Advocate Zulhasuddin V Bangladesh*, 2010 BLD 1³⁴ the High Court Division held that 'The imposition of VAT on receipts of medical and dental treatment, pathological laboratory and diagnostics centre & fees of specialists doctor is ultra vires of right to life'.

Mohiuddin Farooque Vs. Govt. WP no. 891 of 1994³⁵ (well known as Industrial Pollution Case). The Court referring paragraph 3 of the preamble of the Constitution states that the preamble glorified the pledge of the nation to establish a society where the rule of law,

³¹ comment on the right to life' (2 November 2016):

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20817&LangID=E#sthash.Bdpw5AQZ.d>

³² Article 6 of the International Covenant on Civil and Political Rights (ICCPR) .

³³ *Ain o Salish Kendra (ASK) v Government and Bangladesh & Ors* 19 BLD (1999) 488.[available at : <https://www.es>

³⁴ *ADVOCATE MD. SALAHUDDIN DOLON VS. BANGLADESH AND OTHERS* [4 LNJ (2015) 1]

[available at : *Advocate Md. Salahuddin Dolon Vs. Bangladesh and others* [4 LNJ (2015) 1] - The Lawyers and Jurists (lawyersjurists.com)]

³⁵ *Farooque vs. Government of Bangladesh*, WP 998 of 1994, CA 24 of 1995 (1996.07.25) (Flood Action Plan Case)[available at: *Farooque vs. Government of Bangladesh*, WP 998 of 1994, CA 24 of 1995 (1996.07.25) (Flood Action Plan Case) | ELAW]

fundamental human right, living with dignity will be secured for all the citizens. Art. 32 runs as ‘No person shall be deprived of life or personal liberty, save in accordance with law.’

So, This declaration in the Constitution is not mere empty words. The expression life enshrined in art 32 includes everything which is necessary to make it meaningful and a living worth life. The Honorable High Court Division further mentions that article 31 & 32 of our Constitution encompass within its ambit the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life can hardly be enjoyed. Any act or omission contrary thereto will be a violation of the said right to life.

Our Constitution now recognizes the modern or progressive interpretation of the right to life. Part (III) of the Constitution of the People's Republic of Bangladesh includes a provision for the right to life. The Fundamental Rights are listed in part (III). The judiciary has the power to enforce the fundamental rights (art. 8 to art 47) enshrined in part (III) of the constitution.³⁶ Despite the fact that the fundamental principle of state policy is not judicially enforceable, it has been given enforceability in several circumstances by referring to the word right to life in articles 31 and 32. The right to life is, after all, a widely acknowledged human right. This right overrides all other human rights.

Death Penalty and Right to Life

Human Rights and the Death Penalty: The death penalty is a denial of the most fundamental human right: the right to life, which states must recognize. The Universal Declaration of Human Rights (UDHR) of 1948 states: Everyone has the right to life, liberty, and personal security.

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.³⁷

In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.³⁸

³⁶ The Constitution of the People's Republic of Bangladesh (ACT NO. OF 1972)

³⁷ ICCPR (article -6 (1))

³⁸ ICCPR (article -6 (2))

Punishment of the Crime of Genocide. Anyone sentenced to death shall have the right to seek³⁹ pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.⁴⁰

Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.⁴¹ Today 139 countries have abolished death penalty (Amnesty International 2010).

3.5 Conclusion

The constitution recognizes civil and political rights as fundamental rights. "The Republic must be a democracy in which fundamental human rights and freedoms, as well as respect for the dignity and worth of the human person, shall be guaranteed," says Article 11 of the Bangladesh constitution. Bangladesh has been promoting and defending all of its population's human rights in a people-centered and "whole-of-society" approach. Human rights come with birth, and every person is entitled to them simply because he or she is a human. They apply to everyone around the world, regardless of race, sex, color, language, religion, political or other views. Human rights are concerned with an individual's dignity and worth. Fundamental rights are addressed in Part III of the Constitution of the People's Republic of Bangladesh (articles 26 to 47A). In fact, we have 18 fundamental rights codified in our constitution.

Human rights are the rights that all human beings have simply because they are human beings, regardless of race, caste, nationality, sex, or language. "Human rights are certain essential rights," writes Fawcett, "they are those that must not be taken away by any legislative or any act of government and are often spelt out in a constitution." By their very nature, they are viewed as belonging to men and women as inherent rights. Another name for them is 'common rights,' because they are rights that all men and women in the globe enjoy, just as the common law in England, for example, was a body of rules and traditions that regulated the entire country, unlike local custom. Human rights, as Lauterbach points out, are very similar to natural rights because they are not created by government. Any civilized country or organization, such as the United Nations, must acknowledge them; they cannot even be amended.

This topic discusses the relationship between the articles of the United Nations Declaration of Human Rights and Bangladesh's constitution. Bangladesh's constitution guarantees all people

³⁹ ICCPR (article -6 (3)

⁴⁰ ICCPR (article -6 (4)

⁴¹ ICCPR (article -6 (5)

basic and fundamental rights. It also ensures that all human beings have complete freedom and specific space. As an example: Article 27 ensure equality before law without any discrimination⁴² Article 28 provide all rights without discriminating as race, sex, culture, religion etc.⁴³

⁴² Article 27 The Constitution of the People's Republic of Bangladesh.

⁴³ Article 28 The Constitution of the People's Republic of Bangladesh.

CHAPTER-4

CONCLUDING REMARK

The Constitution of Bangladesh stands as a testament to the nation's unwavering commitment to safeguarding and promoting the fundamental rights of its citizens. Enshrined within its legal framework are provisions that ensure dignity, freedom, and security for every individual, reflecting Bangladesh's dedication to human rights and a just society.

Civil rights, integral to the Constitution, ensure the right to life and personal liberty. Articles 31 and 32 emphasize that no person can be deprived of these rights except in accordance with the law, underscoring their inviolability. This protection extends beyond mere existence to encompass living with dignity and decency, reflecting cultural and personal heritage.

Economic rights are equally prioritized, recognizing the right to work and property. Article 20 asserts that work is both a right and a duty, essential for personal fulfillment and societal contribution. The right to property, safeguarded under Article 42, allows citizens to acquire, hold, and transfer property, ensuring economic security and opportunity.

Political rights form the bedrock of democratic governance in Bangladesh. The Constitution guarantees the right to vote, stand for public office, and participate in political processes freely. Freedom of assembly, association, and expression are enshrined to enable citizens to actively engage in shaping the nation's governance and policies.

Religious freedom is a cornerstone of Bangladesh's pluralistic society, ensuring every individual's right to profess, practice, and propagate their faith without discrimination. This commitment to religious tolerance is reinforced by constitutional provisions that prohibit discrimination based on religion, race, caste, sex, or place of birth (Article 27).

However, despite these constitutional guarantees, challenges persist. Laws such as the Special Powers Act (SPA) and Section 54 of the Criminal Code grant authorities broad powers of arrest and detention, which can potentially infringe upon civil liberties. Emergency provisions can temporarily suspend fundamental freedoms like freedom of movement and association, highlighting the delicate balance between security and individual rights.

The judiciary plays a crucial role in upholding these rights, interpreting and enforcing constitutional provisions to protect citizens from arbitrary actions of the state. Landmark judgments have expanded the scope of rights, ensuring that constitutional protections evolve with societal needs and challenges.

The right to life and personal liberty, protected under Articles 31 and 32, extends to safeguarding environmental and ecological balance, ensuring that developmental activities do not compromise the quality of life. Recent judicial pronouncements have affirmed that any action or policy that threatens these rights must be scrutinized for its constitutionality and adherence to human dignity.

Economic and social rights, including the right to economic security and social welfare, are fundamental to ensuring a dignified life for all citizens. The Constitution's commitment to a socialist society, as articulated in its preamble, underscores the state's responsibility to protect these rights through welfare policies and equitable development.

In conclusion, while Bangladesh's Constitution robustly guarantees fundamental rights, their effective realization requires ongoing vigilance, judicial oversight, and societal engagement. As Bangladesh progresses, ensuring these rights remain central to its national ethos will be crucial in fostering a just, inclusive, and prosperous society for all its citizens. The Constitution not only serves as a legal document but also as a moral compass guiding the nation towards greater human dignity, equality, and justice.

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