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**‘Human Rights, Role of the Bar and  
Human Rights Commission  
As Safeguard’**

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The quest for human rights has become a fundamental aim of the modern States. The 20th century has witnessed considerable efforts to develop national, regional and international measures for the protection and promotion of human rights.

Although Nation-States have been able to match their profound willingness through impressive number of codification and prescription, human rights violations remain a great concern for all communities. It needs to be remembered that international commitments, standards and machinery have only moral appeal and these may not affect the realisation of human rights for most individuals who are subjects of Nation States. Therefore, it is primarily at the national level that human rights must be made a reality in the lives of the people and the implementation of human rights briefly depends on the domestic enforcement mechanism.

Despite the fact that judiciary plays an effective role, with the increasing number of human rights violation and development of human rights laws in it's broader perspective, court systems become overburdened. As~ a result, considerable delay and cost creates injustices.

It is, thus, realised that innovative institutional measures are needed to convert the rhetoric human rights into reality, to classify the meaning and scope of human rights to actualise human rights in our social and economic contexts and to implant the values of human rights in our political landscape. In this context, institutionalising human rights through national institution are considered a realistic step towards protection and promotion of human rights.

**BACKGROUND**

Although the concept of the Human Rights Commission for the promotion and protection of human rights at the national level developed during the 1970s, I 980s and 1990s at the initiative of the United Nations, the original concern of the United Nation for such an institution had to be traced back to 1946 when the Economic and Social Council asked Member States to consider the desirability of establishing information groups of local Human Rights Committees within their respective countries to collaborate with them in furthering the work of Commission on Human Rights.

In 1960, Economic and Social Council adopted a resolution in which unique role that the national institution could play in the promotion and protection of human rights was recognized and governments were requested to encourage the formation and continuation of such an institution. Later in September 1978, a Seminar on National and Local Institutions for a Promotion and Protection of Human Rights was held in

Geneva in pursuance of the decision of the Commission on Human Rights in which guidelines for the structure and functioning of such a body were adopted. These guidelines were subsequently endorsed by the Commission on Human Rights and by the General Assembly. The Commission called all Members States to take appropriate steps for the establishment, where they had not already existed, of national institution for the promotion and protection of human rights.

In 1991, the United Nations convened the 1st International Workshop on 'National Institutions for Promotion and Protection of Human Rights' in Paris and "The Paris Principles" were drafted. Subsequently, General Assembly endorsed the "Paris Principles" on 20 December 1993. These principles provide that a national institution must be independent, have as broad mandate as possible, be characterised by regular and effective functioning, pluralistic and representative composition and adequate funding and be easily accessible to the public.

### **HUMAN RIGHTS COMMISSION- AN INTRODUCTION**

A conceptual framework has already been developed to refer such institution as "a body whose functions are specifically defined in terms of the promotion and protection of human rights" and which are considered to be "administrative in nature in the sense that they are neither judicial nor law-making." Such national institutions have advisory authority with respect to human rights and their purposes are pursued either in a general way, through opinion and recommendations, or through the consideration and resolutions of complaints submitted by individuals and groups. It has also been stressed that these special national human rights machinery are not intended to replace government, judiciary and legislature, the United Nations nor human rights non-governmental organisations: the role of national institutions should be seen as complementary to those of other agencies and that "strengthening of such (national) institutions can only enhance the effectiveness of both national and international systems for protection and promotion of human rights" [UNHR Fact Sheet No.19~J.

For whatever specific purposes and by whatever means a national institution is created, one fact remains clear - it is established by the State which officially acknowledges its human rights obligations to its people by vesting such institutions with the broad mandate and competence to protect and promote human rights. Morally and ideally, it should be a manifestation of the political will of the State to recognize the inherence of human dignity of each human being. Politically, it should be an acceptance of the governing authority to fulfill its general social contract with the governed. Legally, it should be a means of ensuring government compliance with its human rights obligations under international customary law, as well as with international normative law, where applicable.

### **IMPORTANCE OF THE NATIONAL HUMAN RIGHT COMMISSION**

The necessity of a national Human Rights Commission to ensure respect and protection of human rights is keenly felt in a state professing the rule of law for several reasons.

In the first place, the Commission may provide easy access for the most vulnerable and disadvantaged groups in society including the homeless, refugees migrant workers, indigenous peoples, minorities, those with intellectual disabilities, the mentally ill, children and others. The reality, even in develop countries, is that the courts are inaccessible to a large proportion of population because of the high costs involved, although 'equal access to law for the rich and poor alike is essential to the maintenance of the rule of law'. The national Human Rights Commission can transform the rhetoric of the national and international instruments into realities for

millions of people for whom the term 'human rights' has previously had no meaning at all. It can investigate complaints without recourse to cumbersome rules of evidence and procedure and settle complaints by negotiation, conciliation or arbitration - procedure which are not only more 'cost effective' than more traditional adversarial or inquisitorial procedure, but also more 'user friendly' to groups which have traditionally been disempowered and frequently find the trappings of traditional courts quite intimidating.

Secondly, the HRC may resolve complaints more speedily than the courts for the benefit of those whose rights have been violated.

Thirdly, the Commission may provide the most effective means of preventing human rights violations through educating individuals that they have rights, balanced by responsibilities which governments, private sector and other individuals must respect. It can play a valuable role in relation to research, publications and dissemination of information about human rights. Formal and informal human rights education can contribute to prevention of human rights violations by promoting a human rights culture.

Fourthly, The commission may play an important role in helping both governmental and nongovernmental organizations to give practical effect to the international principles they are committed to observe.

Fifthly, the national Commission can contribute to and monitor the integrity of government reports to international treaty bodies, reflecting the realities of human rights beyond the perception of bureaucrats ensconced in national capitals.

Sixthly, they can provide constructive, well-informed criticism from within, which is frequently important in corroborating or balancing criticism from 'international bodies'- often dismissed by government subject to criticism as based in ulterior or illegitimate motives.

Seventh and finally, the existence of a national mechanism with the power to investigate abuses and provide relief to victims can, of itself, discourage acts or practices inimical to the enjoyment of human rights.

#### **HUMAN RIGHTS, BANGLADESH AND CONSTITUTIONAL GUARANTEE**

Bangladesh achieved its independence in 1971 through a long struggle and nine months war. The aspirations of the common people were to free the country from autocratic foreign military rule and to establish a just and democratic society. For the cause of its independence, three million people sacrificed their valuable lives and thousand of mothers were dishonored. Thereafter, Bangladesh adopted an excellent constitution, which is the supreme law of the State, where it is pledged in the preamble that 'the fundamental aim of the State is 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.'

Bangladesh as a Member State of the UN adopted many of the provisions of the Universal Declaration of Human Rights in its Constitution. This is reflected firmly in the statement made in the preamble of our Constitution. In respect of human rights, a guarantee provision was adopted in Art. 11 of our Constitution that 'The republic shall be a democracy in which fundamental human rights and respect for the dignity and worth of the human person shall be guaranteed.'

Despite the constitutional guarantee, in absence of proper check and balance mechanism, violations of human rights are not sporadic. However, in order to promote and protect human rights, various professional, social and non-governmental organisations, in different capacity, are providing very important services.

## ROLE OF THE BANGLADESH BAR COUNCIL

Bangladesh Bar Council earnestly feels that, lawyers as social engineers should play their role in promoting and protecting human rights and to fulfil this purpose, it has initiated to shape-up the lawyers in their professional skills and train-up the lawyers in human rights.

Bangladesh Bar Council is an independent statutory body, elected by 24,000 lawyers spread over 79 District Bar Associations and in the Supreme Court Bar; Though Bangladeshi lawyers have traditionally been involved in public interest issues, e.g. giving legal aid, taking up human rights cause and initiating, forming and joining human rights organizations, those were done by individual lawyer or group of lawyers taking initiative on their own.

Scope for structured mechanism began to expand through the introduction of continuing legal education program which embraced one of the most proactive agenda on Human Rights Training for the lawyers. It was introduced in 1993 under the leadership of Bar Council's legal Education Committee.

While the course started primarily with the objective for sensitizing the lawyers community spread over various districts with a view to create awareness and provide basic knowledge and information regarding human rights law, it's ultimate objective is to create a country wide movement for human rights watch, monitoring and reporting for the purpose of greater mobilization of public opinion and effective preventive and remedial measures both inside and outside the court.

The Human Rights Training Program of the Bangladesh Bar Council has been imparting training among the lean ~ed advocates of the country with a view to create awareness and to increase their subjective knowledge about human rights. With the sponsorship of the Royal Netherlands Government the project has already completed its first and second phase under which it has given training to 1008 advocates.

The First Phase of the training programme has been the first ever of its kind for lawyers of the country and as such the course was designed as an introductory one. Moving on from the general familiarization goal of the first phase, the second phase of the program is now focusing on specific areas of human rights, their violations and available remedies within the existing legal system.

The objectives of the Human Rights Training Program have been classified into three groups immediate, intermediate, and ultimate. The immediate objective includes identification of training objectives on the basis of lawyer's abilities, developmental skills and motivation level, selection of appropriate inputs - topics, resource persons, teaching methods and supporting facilities; suitable techniques of teaching and feedback mechanisms. Intermediate objective is to motivate the Human Rights perception, orientation, skill, and values of the participant lawyers. The ultimate objective is to get the lawyers involved in human rights movement to institutionalize and replicate this training program elsewhere in the country through Human Rights Monitoring Cell of their respective Bar, and also to undertake appropriate litigation to vindicate the rights of the citizens and the disadvantaged groups.

Bangladesh Bar Council do not believe in preaching the concept of human rights only, rather we intend to set an example, for implementing the rights, It is from this belief the idea of monitoring cell has emerged. Taking the importance of monitoring cell into account, Bar Council adopted a resolution dated 10 April 1997, with regard to the formation of monitoring cell.

No organizations other than the Bar Council is in a position or has such firm tooting with its existing networking system through District Bar Associations to provide such service in each of the districts all around the country. As Bar Council is situated at the

top of all the Bar Associations, it is in a position to supervise and co-ordinate the activities of the cells. The victims of human rights violation especially the disadvantaged group shall get shelter under the umbrella of the monitoring cells.

### **NATIONAL HUMAN RIGHTS COMMISSION IN BANGLADESH**

The government is now finalizing a law for the establishment of an independent National Human Rights Commission in Bangladesh. In this regard, a draft bill has been prepared after having intense consultation with various national and international organizations, holding seminars, symposiums, workshops on the issue for the establishment of a National Human Rights Commission which were participated by national, international and UN personalities. The draft bill proposes that a National Human Rights Commission will be established "for the protection, promotion and creation of conditions for the enjoyment of human rights." Human Rights Commission is a national mechanism that reflects and appreciates local conditions and cultures, and is also consistent with the standards prescribed in the international instruments. Setting up of a National Human Rights Commission is obviously a bold, positive step towards establishing the rule of law throughout the country in the true sense of the term. It would also help in running the administration of the country with greater measure of transparency, accountability and popular confidence. The Cabinet approved in principal a proposal for setting up a neutral and impartial National Human Rights Commission in Bangladesh. However, It is expected that the Bill will be enacted by our Parliament soon.

### **CONCLUSION**

It has been 50 years since the United Nations adopted the Universal Declaration of Human Rights. On numerous occasions, we witnessed gross as well as specific violations of human rights in many countries. Among them, some of the countries are constitutionally bound to protect and promote human rights. Lack of effective mechanism for the scrutiny of human rights violations both by governments and individuals creates a vacuum which results harsh and unjust consequences.

A properly formulated and empowered Commission for Human Rights, in today's world, is not only imperative but also a natural demand for furtherance and preservation of human rights and humanity as a whole.

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