



Justice Md. Fazlul Karim

‘Human Rights And Peace’

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Human rights are those rights which are inherent in our nature and without which we cannot survive as a human being. Vienna Declaration of 1993 in its World Conference on Human Rights proclaimed that the human rights are universal, indivisible, interdependent and interrelated. Thus the human rights charters are charters of rights for mankind and violation of it anywhere is the concern of everybody everywhere.

The International Bills of Human Rights include (i) Universal Declaration of Human Rights declared by the United Nations in 1948, (ii) International covenants on Economic, Social and Cultural rights and (iii) International covenants on civil and political rights and optional protocol which were adopted in 1966 which has added a new connotation to human personality in helping the growth of a moral personality. The covenant has recognized the right of self determination by the people and the concept of free legal aid. Human Rights finding place in the International Roll of Human Rights when enacted into law of the country, the rights are termed as the fundamental rights of the country.

Our is a demonstrate country and all the ideals of a welfare state ensuring human rights declared at the declaration of the human rights and the UN charter has been incorporated in our Constitution either as the fundamental rights or as a fundamental principles of State policy. In the preamble of the Bangladesh Constitution the people of Bangladesh have pledged unto themselves that it shall be a fundamental aim of the State to realize the democratic process a socialistic society, free from exploitation - a society in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social rights will be secured for all citizens. The rule of law mentioned above is an ancient concept of jurisprudence.

In Chapter III of our Constitution the fundamental rights enshrined in our Constitution are mostly in accord with the rules of International Bill of Human Rights mainly, providing such rights as equality of all irrespective of relation, race, caste, sex and place of birth, entitled to equal protection of law, nondiscrimination in all matters including opportunity in public employment, right to protection of law, of life and personal liberty, safeguard as to arrest and detention, protection in respect of trial, punishment. freedom of movement and assembly, freedom of thought, conscious and speech, freedom of profession or occupation, freedom of religion and right to property etc.

The striking features of our Constitution is that we the people of Bangladesh have given into ourselves a Constitution securing such rights for every citizen and that apart from Article 102, the enforcing mechanism, the right to move the High Court

Division in accordance with Article 102 clause (1) thereof is guaranteed for the enforcement of the aforesaid rights provided in Chapter III of the Constitution.

Together with the above, the provision in Chapter II of the Constitution i.e., the Fundamental principles of State Policy though not enforceable but have the promotional aspect as the principles are fundamental to the Governance of Bangladesh and shall be followed in the making of laws. The principles are promotion of local government institutions. participation of women in all walks of natural life. democracy and human right and effective participation of the people in all spheres of administration have been ensured, emancipation of peasants and workers, provision for basic necessities, rural developments, free and compulsory education, public health and morality, work as a right and duty. ensuring equal opportunity.

This chapter though not enforceable in the Court of law but is very important as it envisages that the state shall adopt effective measures to remove social and economic inequality between man and man and to ensure the equitable distribution of wealth amongst its citizens and of opportunities in order to attain a uniform level of economic development throughout the Republic.

The concept of rule of law designed to secure the social justice has a reference to the natural right of men, that all men are equal, born free and equal in sharing the common bounties of nature. The claim of equality or any of its cognate expressions in the social, economic and political realm, is fundamentally natural, equality bereft of discrimination based on grounds of race, creed and heredity, is the principle invoked mainly for the implementation of justice in social, political and economic field. in Western philosophy Plato was the first thinker to have given the world the theory of ideas reflecting the vision of equality of man but he could not go to the extent of slavery anything against which was the antithesis of the theory of equality. Slavery was ultimately abolished in the British Empire by Emancipation Act. 1833, the Americans, could abolish it during the time of Abraham Lincoln who laid down his life for the cause of emancipation of slavery. Social Justice was initially a doctrine of social Philosophy but ultimately it has entered into State craft and has occupied a place in the Constitutional field, social justice secured equality whereas political justice secured liberty. The Glorious Revolution of 1688 in England with the achievement of Bill of Right (1689) the American War of Independence in 1776. the French Revolution with its declaration of human rights of Men (1789) and Russian Revolution in 1917 against the despotism of czars were political in outlook and consequences but were motivated by social cause. The fatal onslaught on the Divine right of the Kings was the political corollary of great social upheaval which was more a rebellion against inequality than against despotism. The revolution had been the main purpose of reorientation of the Society which was previously consisted of privileged and the unprivileged class. The relish of the natural right of men in the liberty, equality and fraternity was the dedication of revolution to mankind, social justice narrowed down to happiness to the greatest number of economic Justice which is also a counterpart of social justice. The states exist for the welfare of the society and are a means to an end. The modern State has undertaken the arduous task of overall development of man and society in all walks of life. The basic duty of a welfare state is to redeem mankind from hunger, ignorance, misery and other social and economic ills. It is to undertake and safeguard mental, physical and moral health of individual by making provision for housing, employment. descent standard of living and leisure & recreation. All those are to be done by legislation which is the added liability of the State and has widened the field of administration of justice. This enjoins upon the State to set a way how justice is to be administered. When the justice

was administered by the king.. there was no system of laws. To ensure impartiality the administration of justice was handed over to impartial persons. There are some universal law which cannot be changed. The Constitution of different Country may be different but the human trend, common to all is that each one of them aspire to secure justice by the government of laws and not of persons; the law of different countries may be different but the justice is one and therefore the fundamental of justice are universal and immutable. The natural justice is justice in deed and in reality, while the legal justice is more or less formulation of natural justice by civil law for the direction of Courts and tribunals by which the justice is administered.

So far we have dealt on rights which are inherent in any human being, its realization though various mechanism. But such rights in most underdeveloped or developing country remain a right to be enforced, shared or preserved subject to certain condition precedent. The easy way of realizing those rights and in order to bestow the fruits of those rights to all citizens, we consider that it is the duty of all citizens to protect. preserve and safeguard other rights from invasion and thus each of the citizen is dutiful in preserving others rights while securing his own rights. I think, much of the difficulties faced in the matter of realization of fundamental rights could be avoided. The duty concept of every citizen in maintaining, preserving and realizing own rights can make us realize the rights of all their citizens by mutual and collective understanding.

Meanwhile 54 years has elapsed since Bill of Rights were adopted by United Nation but still in most of the countries we are desperately striving for achieving rights of its citizen and thus it is a far cry in reality excepting observance of human rights day once a year. Let us work together honoring each other's rights, performing our duties to our fellow citizens, society and the State to make our country a truly democratic one in which fundamental human rights and freedom and respect for the dignity and worth of the human person would be guaranteed for all of its citizens. Though the world today has declared "women's right as human right" but the same should be materialized in its letters and spirit, instead of using it as a slogan.

The majority of our citizens are Muslims and following the Madina Charter and the preaching of Islam though Quran and Hadith we could follow certain values clearly articulated by Islam i.e. Unity of God, striving hard and study to understand the laws of the universe and to unveil and disclose all its secrets:

freedom and responsibility, sacrifice, compassion and commitment, unity of mankind and universal brotherhood and equality of all human being, striving for justice and collective endeavour to establish justice in the society and stressing distributive justice. We must act together showing compassion for the deprived, help the poor and underprivileged providing the basic rights and to fully act on the commitment guaranteeing the basic rights to all as envisaged in the Shariah in order to establish brotherhood, peace and justice providing all the basic necessities of life to all as has been enshrined in our Constitution.

It is high time that we should incorporate the duty concept in the human right jurisprudence for our awareness and effective participation in honoring and preserving others rights vis-a-vis maintaining and securing our own rights, which would enable us to secure social justice thereby peace for us and the prosperity for all in this planet.

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