



SECURITY OF THE HUMAN RIGHTS DEFENDERS IN PROTECTING HUMAN RIGHTS IN BANGLADESH

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Human Rights are Charter of Rights for Mankind. Human Rights are those Rights which are inherent in the nature of Human Beings without which Human Beings cannot live in the World. Concept of Human Right is not a new one but ancient. From the earliest time Human History is a History of long struggle to protect Human Rights, Liberty and Independence. Scholars like Plato and Aristotle championed the thought that People/ Men were not subject who are exclusively made to bow but, also, were Human Beings who needed to be taken care of. History witnesses that Powerful Emperors/ Rajas by dint of their power and superiority conquered another weak/State/ Country and Land and Independent Citizens of conquered/ vanquished Country/State were taken to the Land of Conquerors and their Liberty and Independence were seized ,thus, grossly violating their Human Rights to live in their Country/State / Land as Free and Independent citizens. Citizens of the Conquered Country were taken to the land of Conquerors as slaves. We speak of Roman Civilization. but the question is : By dint of sheer power and arms did Romans not violate Human Rights of Free and Independent Citizens of another weak and powerless countries. In the face of Human Right Violation can Romans be characterized as Civilized. My answer is in firm Negative.

British People/ Englishmen kept the People of this Sub-Continent under their feet for long Two Hundred Years by dint of conspiracy, intrigues, with the help of some Traitors / Betrayers of the soil of Bengal. British People came to this Sub-Continent only to Rule the Sub-Continent. Not that with a Missionary Object to educate People and to help people in building of up Society. But they came only to loot away the wealth, resource of Subcontinent. People of this Sub-Continent became prisoners and slaves in the hands of British Imperialist. Human Rights of the People had been grossly violated. Voice of Freedom Fighters of Sub-Continent who wanted to emancipate people from the British Rule had been ruthlessly shut. True it is that Englishmen made some contribution to People of this Sub-Continent such as English Language which has become International Language of the world and English Common Law system which has become Legal System of our Land.

Imperialist Forces of the World grossly and nakedly violated Human Rights of billions and billions People of the whole world. People of those Countries became Foreigners in their Countries (ঐতিহাসিক বিপ্লব). In various Countries of the world who were deprived of their Liberties, Independence and Human Rights started struggle and movement for their emancipation from colonialism. Slogans had been raised through the whole colonial world. Hands of Imperialists : নব জীবন মন্ত্রণালয় | Heroic sons and daughters of Colonial world sacrificed their lives at the altar of liberty, Independence and Human Rights.

With the dawn of Mid Twentieth Century, the struggle was directed mainly to secure social, economic, political and civil justice from within the own Government and persuade the Government to respect People's Fundamental Rights which are Human Rights. On the,

conclusion of Second.. World War, a process of Internationalization of Human Rights took place. In addition to the struggle for Human Rights in their own Countries lunched by the People of those Countries, International community expanded its involvement in its efforts to achieve respect for Fundamental Human Rights and this Internationalization of the quest for Human Rights led to the modification of the Traditional Concept of Sovereignty of the State. Resultantly, various Codes embodying Universal Principles of Human Rights to be observed throughout the whole world transcending State boundaries were adopted by various International Bodies. The first of these Codes was The Universal Declaration of Human Rights adopted by United Nations General Assembly on 10 December, 1948. Two other Covenants quickly followed it. They are The International Covenants on Civil and Political Rights (ICCPR) and The International Covenant on Economic, Social and Cultural Rights (ICESCR). These three Documents are together referred to as "International Bills of Rights".

This takes me to Security of Human Rights Defenders in protecting Human Rights

Human Rights Defenders are those men and women who act on their own or collectively to promote or protect Human Rights. Human Rights Defenders work in various spheres and their works are inspired by International Human Rights Standards. These works include Search for Truth and Justice : the strengthening of Rule of Law : Increasing Government Accountability : the struggle for Gender, Sexual and Racial equality : Children's Rights : Rights of Refugees and struggle against Corruption, Environmental Degradation, Hunger, Disease and Poverty.

It was not until the beginning of 1980's more than 30 years after the adoption of Universal Declaration of Human Rights that the idea emerged of the necessity to deal with the threats mounted against Human Rights Defenders and mistreatment of Human Rights Defenders.

Everyday, throughout the world, men and women were arrested, tortured, killed, gagged, banned from meeting and repressed whilst protesting peacefully. Some had already been likened to terrorists, a tactic which was used more commonly after that. The press that reported their activities was gagged and wiretapped when not placed under direct State Control.

But everyday Men and Women got up and asked what had happened to their Brothers, Husbands or Children. Everyday, despite the repression that reigned over them and their families, Men and Women, driven by an uncontrollable force of conviction and magnificent courage met to promote Human Rights and Fundamental Freedom.,

These Men and Women, often Anonymous Victims, Freedom Fighters, whether Anonymous or better known Activists, all met to defend the ranks of Human Rights victims. Many had been adopted by Amnesty International Groups, quoted in NGO Reports, had been the subject of letter Campaigns and Diplomatic pressure and their names mentioned during High-Level contacts with State Representatives.

It was seriously felt that a Declaration on Human Rights Defenders is to be passed. Process and Works commenced. Undergoing a long process on December 9, 1998, on the eve of 50th Anniversary of Universal Declaration of Human Right, United Nations General Assembly formally adopted the Resolution reaffirming the importance of observance of the purposes and principles of the Charter of United Nations for promotion of all Human Rights and Fundamental Freedom for all persons in all Countries of the World.

Pierre Sane, Secretary-General of Amnesty International on 10th December, 1998 during the 50th Anniversary Celebration of the Universal Declaration said : *There is reason to be*

ashamed, when we see that Fifty Years from the spirit of idealism and commitment to a better World which framed the adoption of the Universal Declaration of Human Rights, poverty affects Hundreds of Millions of Human Beings, while torture, `disappearances ; unfair Trials and unlawful killings continue, While many National Leaders will mark today's historic occasion by reiterating their will to protect Human Rights. Amnesty International will hold up a mirror for everyone to clearly see how far the reality is from the world envisaged by Universal Declaration of Human Rights. There are at least 1.3 Billion people in the world who live on less than one dollar a day; 117 Governments that torture their citizens, at least 55 Governments that unlawfully kill them, at least 87 that Jail prisoners of conscience, at least 31 that make their citizens " disappear"; and at least 40 Governments that execute them. The Universal Declaration of Human Rights has been called the "World's best kept secret"; and "little more than a paper promise"; but for 50 years, tens of thousands of Human Rights Defenders and Non-Governmental Organizations have been trying hard to make this secret widely known.

On December 9, 1998 the eve of 50th Anniversary, of Universal Declaration of Human Rights (UDHR) United Nations General Assembly in Geneva had its turn and formally adopted the Resolution "reaffirming the importance of the observance of the Purposes and Principles of The Charter of United Nations for promotion and protection of all Human Right and Fundamental freedoms for all persons in all Countries of the world",

Conscious of the importance of the adoption of the Draft Declaration in the context of the Fiftieth Anniversary of the Universal Declaration of Human Rights : Resolution 217 A (III),

1. Adopts the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect

Universally Recognized Human Rights and Fundamental Freedoms, annexed to the present resolution;

2. Invites Governments, Agencies and Organizations of United Nations System and Inter Governmental and Non-Governmental Organizations to intensify their efforts to disseminate the Declaration and to promote Universal respect and understanding thereof, and requests the Secretary-General to include the text of the Declaration in the next edition of Human Rights ; A Compilation of International Instruments".

Acknowledging the legitimacy of the actions of Human Rights Defenders and affirming that they should be protected, this Resolution was then followed by a Complementary Resolution on 8 March 1999 at the United Nations General Assembly which finally established the official concept of a Human Rights Defender.

The legal framework for protection of Rights of Human Rights Defenders as well as any individual or groups includes International Human Rights Standards to which Bangladesh is a State party. The International Covenant on Civil and Political Rights (ICCPR), The International Covenant on Economic, Social and Cultural Rights (ICESCR), The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention of the Rights of Child: (CRC), the Optional Protocol to CRC on the involvement of Children in armed conflict, The International Convention on the Elimination of All forms of Racial Discrimination, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are Documents for Human Rights Defenders.

In addition, Declaration on Human Rights Defenders reiterates safeguards to be implemented to protect the Rights of Human Rights Defenders. The following Articles of Declaration are particularly relevant to the Defenders of Human Rights in Bangladesh.

Article 1 of the Declaration states

"Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of Human Rights and Fundamental Freedoms at the National and International levels".

Article 9.1 of the Declaration states

"In the exercise of Human Rights and Fundamental Freedoms, including the promotion and protection of Human Rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those Rights".

Article 12 of the Declaration states ;

1. *"Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of Human Rights and Fundamental Freedoms."*
2. *The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary, action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.*
3. *"In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities ad acts, including those by omission, attributable to states, that result in violations of Human Rights and Fundamental Freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of Human Rights and Fundamental Freedoms"*

Part 3 of The Constitution of The People's Republic of Bangladesh provides for safeguards against the type of Human Rights violations that Human Rights Defenders face. Their inclusion in Part 3 is significant because Constitution specifies that any laws inconsistent with Fundamental Rights as specified in Part 3 would be void.

In Part 3, The Constitution provides guarantees of equality before the law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, equality of opportunity in public employment, right to protection of the law, to life and personal liberty, to safeguards with regard to arrest and detention, safeguard against unfair trials, the right to freedom of movement, assembly, association, thought, conscience, and speech, freedom of the press, freedom of profession or occupation, freedom of religion, right to property, and to protection of home and correspondence.

Furthermore, Article 44 of The Constitution states that 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 (3) is guaranteed"

The Governments acknowledge that the work of Human Rights Defenders which involves observing and monitoring the situation and making suggestions to improve it was compatible with the State's obligations, which should conform to National and International Human Rights Standards. In addition, they acknowledged that the, works of Human Rights Defenders contributed considerably to ensuring these obligations, are respected.

The Declaration on Human Rights Defenders calls on Governments to protect those Rights, which play a Fundamental Role in the work of Human Rights Defenders. The right to

Freedom of expression, to peaceful assembly, to start collective actions and to demand change non-violently, as well as the Right to receive and disseminate information and to communicate with National and International Organizations have all been recognized as basic Rights for these Human Rights Activists/Defenders.

Human Rights Defenders often put themselves in danger when they criticize the State or others in position of power. Governments are, therefore, obliged to ensure that they can act freely without fear of interference, discrimination, threats or reprisals.

In the event of allegations of such acts, Human Rights Defenders have the right to file a complaint with an Independent, Impartial and Competent Authority (legal or other), and if the violation is proved, they are entitled to compensation. According to Declaration, Governments should play a Role in promoting Fundamental Rights, notably through:

- *The dissemination of information on Human Rights;*
- *Education on Human Rights ;*
- *The creation of National Institutions for the Defense of Human Rights.*

The commission of Human Rights called on Governments to implement the Declaration on Human Rights Defenders and to produce, reports on the measures taken to this end. It, also, called on all United Nations Agencies and Mechanism dealing with Human Rights issues to consider the measures included in the text.

Let me now focus on Security of Human Rights Defenders in Bangladesh.,

In good number of occasions Bangladesh witnesses abuses, torture and ill-treatment upon Human Rights Defenders and these abuses have occurred under all Governments. Human Rights Defenders in Bangladesh include Journalists, Writers, Academician, Staff of Non-Governmental Organizations, Lawyers, and Members of Professional Bodies, and, also, Women and Men in Rural or Urban areas and from various Social Backgrounds.

Human Rights abuses have occurred in the context of a Deep Rooted Political Polarization in the Country which appears to have divided the entire society into camps primarily associated with one or the other of the Two main Political Parties - The Bangladesh Nationalist party and The Awami League - or with smaller political groupings.

The prevalence of armed criminal gangs and failure of all Governments and the main Political Parties to disband them has provided impetus to a culture of gun violence against which abuses against Human Rights Defenders occur.

These armed gangs are either "student" groups affiliated to major political parties or gangs identifying themselves as Maoist Parties and allegedly linked to certain individual politicians.

Most "Student" Groups are remnants of the Students Movement of late 1990s. At that time, Students played a major Role in Bangladesh Politics. Their involvement in street agitations played a crucial role reportedly with the support of their affiliated parties. They used these weapons frequently in street battles against rival groups or armed student groups of other parties. In the past 10 years, University Campuses have frequently been the scenes of such armed clashes. Each party uses them to spread or maintain its sphere of Political Control in the Country.

Major "Student" groups in Bangladesh are: Bangladesh Chatra Dhal (BCD), affiliated to the

Bangladesh Nationalist Party; Bangladesh Chattra League (BCL) affiliated to the Awami League ; and Chattra Shibir, affiliated to Jamaat-e-Islami. They appear to function in connivance with their affiliated parties. When their parties are in Government, armed "Student" groups become unchallenged perpetrators of Human Rights abuses, reportedly under the patronage of their Party's Politicians. The involvement of these armed groups in the political process is believed to be one of the major causes of political violence in Bangladesh. It has resulted in severe injuries and deaths. Political parties many times have pledged, but failed, to disarm them. Powerful mercenary gangs with a structure largely independent of Political parties are, also, operating within and outside the student Groups. They change allegiance and reportedly aid the political party, which offers them impunity. Their service, in return, may range from suppressing revelations of unlawful deeds of politicians, to helping politicians - through intimidating and coercing the voters-to retain their Parliamentary Seats.

Human Rights abuses have also occurred in the context of a long-standing tension between Two Cultural and Political Orientations within Bangladesh Civil Society. One is associated with the perceptions of an Bengali Culture of Secularism in public life with religion (Islam, Hinduism, Christianity, Buddhism and others) playing an important role in personal life. (2) The other is associated with a strict interpretation of Islam as a system of Government regulating both public and personal conduct. (3) Secularism in Bangladeshi political parlance is associated with the belief in the separation of religion from politics. Most political parties in Bangladesh consider themselves to be secularist, but Governments have in one form or another, also, sought to appease religious parties, usually to obtain a stronger majority in Parliament, a move that could allow religious based politics to influence Government policies.

The prevalence of corruption in the Police Force has prevented victims or people at risk from receiving protection from Human Rights abuses or access to Justice; Abuse of Institutions of the State by successive Government Authorities either for personal or party political gains, has further strengthened a cycle of impunity for Human Rights abusers.

Bangladeshi Journalists who have resisted pressure - either from politicians or from armed gangs linked to politicians - to refrain from reporting on Human Rights abuses have been increasingly exposed to death, threats and attacks.

Poor Governance, Corruption, Nepotism, Severe Political Tension in the Country and lack of Accountability remain the main facilitators of Human Rights abuses. Human Rights Defenders in Bangladesh have faced severe retaliatory measures over a decade of struggle against abuse of Authority, Breach of the Rule of law, corruption and impunity. They have been active in highlighting Human Rights violations including Torture; Arbitrary Detention, as well as Repression of Women and Minorities.

Human Rights activists have been arbitrarily arrested and detained in apparent retaliation for their non-violent criticism of the Authorities. Such detainees have usually been tortured or ill-treated while in custody.

The detention of persons solely as a consequence of the peaceful exercise of their Fundamental Rights to Freedom of Expression and Association constitutes arbitrary detention and violates International law including in particular Articles 9 and 19 of the International Covenant on Civil and Political Rights and also Article 12 of Declaration on Human Rights Defenders.

Torture and other forms of cruel, inhuman and degrading treatment or punishment are

absolutely prohibited under International law, including ICCPR (Article 7) and The Convention against Torture. Furthermore, under International Law and in particular Article 15 of The Convention against Torture, no statement that has been made as a result of torture may be produced as evidence in any proceedings. The Right to be free from torture and ill-treatment is a Fundamental Principle of International Law and can never be derogated from, even in times of Emergency. It is also guaranteed in the Constitution of Bangladesh. Bangladesh is obligated under International Law and its Constitution to prevent torture and ill-treatment. An appropriate Investigation must be undertaken when an allegation of a confession abstracted through torture is made.

Not only do States have an obligation to ensure that torture and ill-treatment are prohibited but they must also take a range of measures to prevent their occurrence. These are to include Legislative, Administrative, and Judicial measures. They must also include other measures such as Training of Law Enforcement Personnel and the systematic review of interrogation techniques.

In the majority of cases, attacks against Human Rights Defenders are usually perpetrated by unidentified assailants. Information gathered by Amnesty International indicates that there has been a pattern to these attacks. Those most at risk are journalists who have reported on criminal acts by armed groups carried out with the complicity of the Law Enforcement Agencies. The Journalists have usually received repeated death threats before being physically attacked.

All Governments in Bangladesh have failed to introduce credible mechanisms for Accountability and performance at all levels of Administration, There is a general consensus within the Human Rights community in Bangladesh that poor Governance, Corruption and Nepotism have severely undermined the Rule of Law including Safeguards in the Constitution to protect Fundamental Rights.

Under International Human Rights standards and the National Law in Bangladesh, Government is accountable for acts, committed by agents of the state. Some of the violations have been perpetrated by the Police, Law Enforcement personnel and at times, reportedly at the instigation of Government officials under the instruction of Politicians who are in Power.

In many cases, it has been left to the victims or their families - aided by moral support from other Human Rights Defenders to keep demanding a Credible Investigation of the attacks, a prompt Trial of the accused, and protection against renewed death threats. Under International Law, particularly the International Covenant on Civil and Political Rights and Convention against Torture to Both of which Bangladesh is a Party, States have an obligation to promptly, effectively and impartially investigate Human Rights violations and provide an effective remedy for the victims. In Bangladesh failure to respond to this obligation has led to a lack of confidence in the Judicial Procedures with many victims choosing not to seek a Judicial redress.

In some instances, attacks against Human Rights Defenders have been investigated and in rare cases a Judicial process to bring the culprits to justice has begun. Human Right Groups/Defenders, Lawyers and Journalist are campaigning persistently for months and years together to secure, justice and to protect Human Rights Defenders, Even when investigations have started those have been very slow in process giving credence to suspicion that Authorities may have deliberately sought to prevent the course of Justice.

Society in Bangladesh has fallen in the grip of few Terrorist, Corrupt people and Human

Rights Violators. The poor and helpless Citizens became and become hostages in their hands. Justice is disadvantageous to them. Law is said to be arrested in the hands of few Powerful persons. Time has come to stand by the side of Human Rights Defenders. On many occasions Human Right Defenders of Society become subject of threats and assaults. It is to be ensured that those Human Rights Defenders are not subjected to threats and attacks and they receive full protection in their efforts to seek Justice through Criminal Justice system. It is, also, to be ensured that Law Enforcement Agencies give necessary support to enable Human Rights Defenders to disclose evidence against perpetrators of abuses to Court without any fear. It is further to be ensured that any Officials within Criminal Justice system who are suspected of connivance with perpetrators of crime through bribery or negligence are brought to Justice and trial. Human Rights and Peace Foe Bangladesh (HRPB) has been playing most pivotal Role in protecting and safe guarding Human Rights in Bangladesh and Human Rights Defenders. Homage is to be paid to Leaders, Organizers, and workers of the organization who act courageously without any fear as Human Rights Defenders.