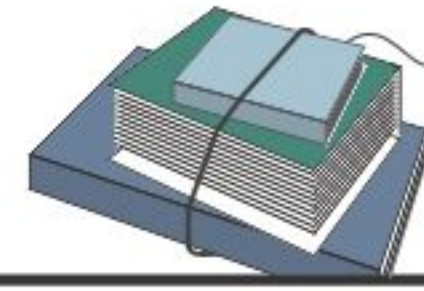


LAW BOOK REVIEW



A Book of Substance on Human Rights

MOHAMMAD MOIN UDDIN

WE, in the legal academies of Bangladesh, are in acute shortage of "quality" textbooks authored by our native writers. While there is no indignity in reading a foreign book, I feel extremely good to get to read an excellent book by our very own masterminds, more so because for decades we have developed a culture of dependence and intellectual constipation. Thanks to Professor Abdullah al Faruque for being a notable exception to that culture. The book under review, which is the third from this author, is the first full-fledged human rights textbook by a Bangladeshi author. The NHRC Chairman Professor Mizanur Rahman commented in the forward to the book that "Bangladeshi readers have long been feeling the absence of" such a book. Though late, it is an occasion for Bangladeshi readers to rejoice because the book came from an author who is known in our academic circles for his intellectual integrity and prolific research publications.

The book titled *International Human Rights Law: Protection Mechanisms and Contemporary Issues* is divided into 9 parts containing 28 chapters. In the first part, the author discussed on philosophical and historical origins of human rights and its development in different intellectual and religious traditions. In his narrative of the history, the author did not remain indifferent, rather took a course of critical appreciation. As he appreciated the American Declaration of Independence as it declared that "all men are created equal," so he did not fail to remind us how black humanity has been denied for many centuries thereafter in the independent USA. Similarly, the role of religion in the development of human rights was marked with its ambivalent and contradictory role. The author also reminds us, as Amartya Sen did before him, that human right is not a unique product of western civilization. Sen in his book *Development as Freedom* (Ch. 10) commented that when Emperor Ashoka and Akbar were practicing human rights in the East, many of their contemporaries in the

West were engaged in Inquisitions (p. 239). We find such nuanced appreciations of history in Professor Faruque's book.

In part 2, the author enumerates the International Bill of Rights with their underlying politico-ideological history and jurisprudential implications. Since the UDHR, the ICCPR and the ICESCR form the central core of modern day international human rights regimes, their contours and interdependence have been comprehensively presented in this part. As we proceed to part 3 of the book, the author clarifies some technical issues of international treaties in general and international human rights treaties in particular. Reservation is one of the technical issues of international treaties that has got special treatment in this part. Reservation of Bangladesh to some provisions of the CEDAW is an example in point. Should such reservations, which go to the heart of the Convention itself, be allowed or not? The author has presented the debate with its inherent sophistications. Derogation from some non-fundamental norms of human rights is another example of limitations on human rights' application. The author presented different debates for and against derogation clauses. Students will find these chapters very easy to understand despite the intricacies involved in dealing with these issues.

Part 4 and 5 deal with the UN-based and treaty-based, and other regional human rights protection mechanisms respectively. Framed in a very informative and comprehensive manner, the author compared regional mechanisms with the UN-based protection mechanism, and suggested that Asia is lagging behind in devising a regional human rights protection mechanism similar to other regions. In this case, South Asia presents a hopeful case, since countries under this sub-region, like the ASEAN region, have extended their cooperation in many areas of common interest under the auspices of the SAARC; the addition of human rights protection mechanism can improve the quality of this bond.

Part 6 deals with the national human

rights protection mechanism. Since state is still the predominant purveyor of power in a territory, human rights cannot be ensured without taking sovereign states on board in the struggle for human rights. The author suggested that national human rights commissions and national judiciaries can play positive role in this respect. Of course, these institutions must be independent in the first place.

corporations have roles to play so far as human rights are concerned. The history of the non-state actors in this respect is very complex in so far as they have played vital role in the framing of many important human rights instruments, including the UDHR, but have also violated human rights at other times. Therefore, in recent times, the non-state actors' human rights advocacy has been facing opposition from many societies in Asia, Africa and Latin America. The author has presented both positive and negative sides of their role in part 8.

In the final chapter, the author dealt with the evolving relationship of human rights with good governance, right to information and participation, prevention of corruption, dissemination of human rights education etcetera. In our national context, these issues are fundamentally important for the overall promotion and protection of human rights.

To me, an ideal textbook is one that combines both intellectual depth and lucid presentation. The book under review fulfils both conditions to its limit. The author has presented the book in simple words avoiding unnecessary grandiloquence and verbosity. The author has rightly concentrated on the substance of the book rather than playing with words. The lucid presentation of the book has kept up with the high stature of the book.

While the book is commendable for its excellence in other respects, I would like to raise some questions on the approaches adopted in this book. First, the author has presented the book from a Universalist point of view. Though the author has given cultural relativism some space to breathe in his book, I think compared to the force of argument presented in recent times by different grassroots movements, Relativists deserve more attention and space. Some authors vehemently oppose universality of human rights so much so that they mark it as a tool of recolonization. Gustavo Esteva and Madhu Suri Prakash in their *Grassroots Post-Modernism* maintained that Cultural imperialism is inherent in the very claim of

universal human rights (p. 144). This and other arguments need proper introduction in a context like ours.

Second, the book has not presented the special claims of developing countries on the face of universal human rights standard. Child labor can be an example. How will the working poor children in developing countries survive if they have to lose jobs facing the universal standard of prohibiting child labor? The book under review is silent about these special cases.

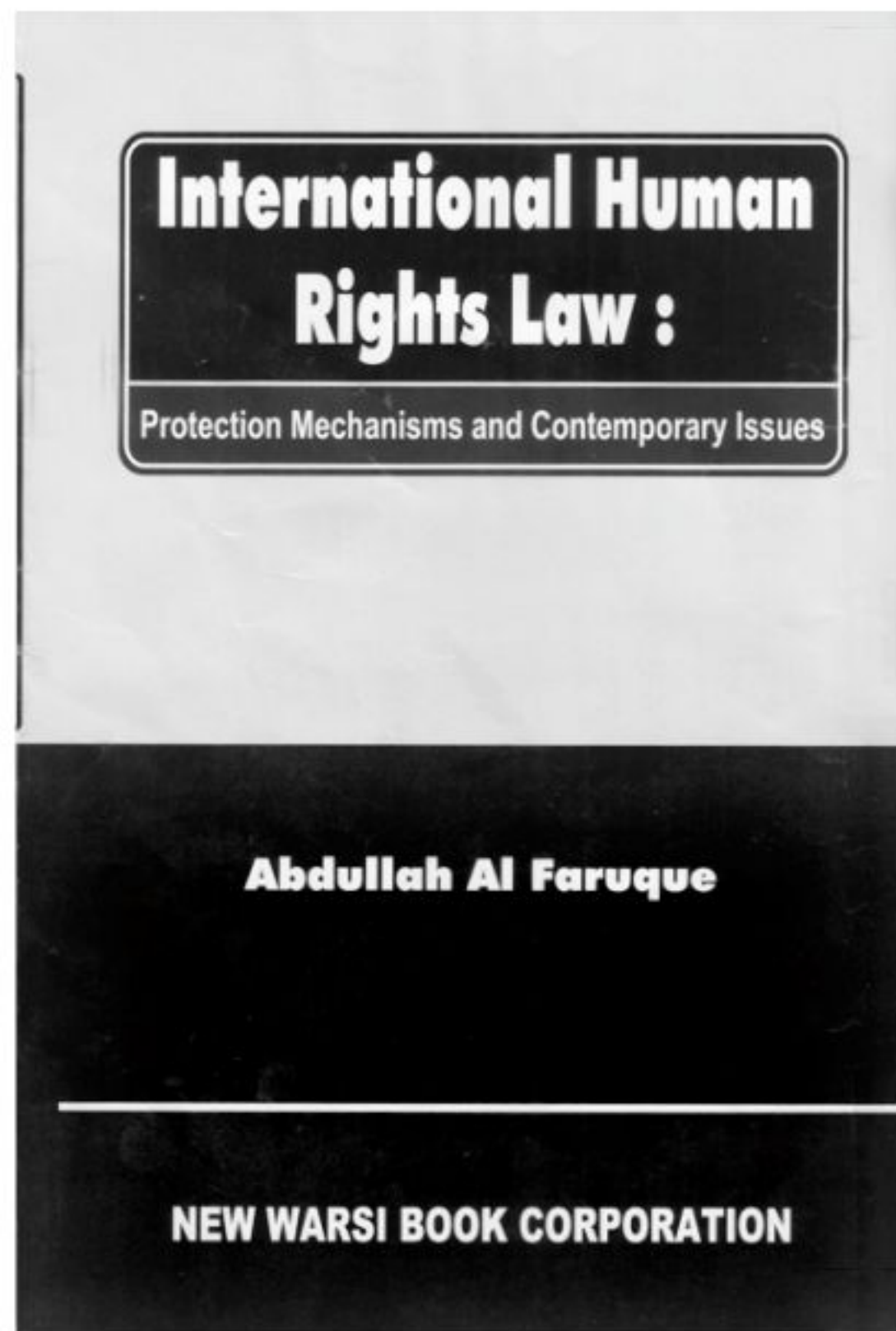
Third, there is no way to deny that protection and promotion of human rights is inextricably related with the political economy of a country. Unless and until the artificially created crisis of food and medicine is out there, the rhetoric of human rights will remain unrealized. We would like to hear more about this realization side of human rights in the coming editions of the book.

Finally, the human rights situations of our country could be made a topic for a separate chapter of the book. A decent discussion of the recent extra-judicial killings and torture in Bangladesh, like the Limon case, conditions of hilly people in the post-Peace Accord era Chittagong Hill Tracts and the forced disappearance of political leaders in different places would make the book more relevant for our readers.

In spite of the above-mentioned caveats I respectfully suggest, the book is an excellent piece of scholarly contribution to our legal academies. Long waiting has ended, and readers can take a sigh of relief as they have got a basic textbook on international human rights. Human rights instructors and students will definitely appreciate the book.

One of my colleagues at Chittagong University suggested that the publishers did not present the book in a form befitting with the substance of the book. I totally agree. But, I ask, when did Professor Abdullah al Faruque, my respected teacher and now the Dean of the Faculty of Law at CU, care about form and formality? We know him as a man of substance. I think consonant with his personality, this book of his is a book of substance.

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Part 7 of the book, which deals with group rights of indigenous peoples, women and children, disabled persons and refugees, forms an important highlight of the excellence of the book. Since these vulnerable groups suffer from subjugation and oppression at the hands of dominant segments of a given society, the protection of their human rights requires innovative discourses and passionate advocacy. The author has succeeded in presenting the special claims of these groups.

Apart from states, non-state actors like NGOs, the media, civil societies and big



HUMAN RIGHTS WATCH

Halt the campaign of persecution against Limon

"The ongoing abuse of Limon Hossain and his family by government elements protecting RAB adds gross insult to already grievous injury," said Brad Adams, Asia director at Human Rights Watch. "The physical violence against Limon and his family and a new spurious murder charge only highlight the depths to which the Bangladeshi government will go to discredit and intimidate a young person who has already suffered the loss of one leg to RAB gunfire."

BANGLADESHI authorities should drop spurious murder charges against Limon Hossain and halt the campaign of persecution against him. Hossain was physically assaulted and injured on August 20, 2012, by supporters of the Rapid Action Battalion counterterrorism force. Hossain was a 16-year-old student when he lost a leg after being shot by the Rapid Action Battalion (RAB) in a bungled operation in March 2011. The police took no action against his attackers. Instead, they filed criminal charges against Hossain and failed to protect him from attacks by alleged RAB supporters.

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On August 20, 2012, Ibrahim Sikdar, an alleged RAB informant, his brother-in-law, Forkan Sikdar and other unidentified people physically attacked Hossain on the streets of his home village of Jhalakati in Barisal district. When his mother and brother tried to intervene, they were also beaten. All three required hospitalization for their injuries and the doctor who tended to Hossain's injuries said he requires ear surgery as a result of the attack. During the August 20 incident, Forkan Sikdar suffered fatal

heart failure. On August 23, Ibrahim Sikdar filed murder charges in the Jhalakati magistrate's court against Hossain and his relatives, accusing them of killing Forkan Sikdar.

The Rapid Action Battalion was formed in March 2004 as an elite counterterrorism force. It has targeted both criminal suspects and alleged members of militant Islamist or left-wing groups.

The unit consists of members from the military army, air force, and navy the police, and Bangladesh's other law enforcement groups. Members are assigned from their parent bodies, to which they return after serving with the unit. It operates under the Ministry of Home Affairs under the command of an officer not below the rank of deputy inspector general of the police or the equivalent military rank. Human Rights Watch and other international and domestic human rights organizations have long documented extrajudicial killings and torture by Rapid Action Battalion. However, the Bangladeshi government has refused to investigate these allegations. In private, some Bangladeshi officials have told Human Rights Watch that they are aware of the human rights violations, but that the government refuses to take action for fear of antagonizing the military.

Hossain was in the fields near his village in Jhalakati in southern Bangladesh on March 23, 2011, when members of RAB appeared, accused him of being a criminal, and shot him point-blank in his left leg. Four days later, Hossain's leg had to be amputated to save his life. Initially, the director general of the battalion, Mokhlesur

Rahman, said that Hossain was an accidental victim of a shootout between RAB and a criminal gang. However, within days, the government issued a statement accusing him of being a "lackey" of known terrorists who was caught in "crossfire" during an operation against the group.

In June 2011, following local and international outcry over the incident, Prime Minister Sheikh Hasina ordered an investigation into the RAB officers involved in the incident. She also said that ongoing investigations had produced no evidence to show that Hossain had any involvement with terrorist activities. Although the prime minister's statement vindicating him and announcing an investigation into his shooting was extensively reported by Bangladeshi media, the government withdrew the statement within four hours.

The government has never clarified why it withdrew the prime minister's announcement or whether the investigation went forward. This lack of clarity has fueled widespread belief that the Rapid Action Battalion has a guarantee of impunity that even the prime minister cannot challenge.

The official police investigation into complaints filed on April 10, 2011, by Hossain's family against six RAB members has still not been completed and no charges have been filed against those who shot him. On August 14, 2012, the police issued a report in which it found no evidence of Rapid Action Battalion involvement in Hossain's shooting.

Instead, on July 8, 2012, the government disclosed that it had charged Hossain with obstructing Rapid Action Battalion operations and attempting to injure and kill RAB personnel. The National Human Rights Commission Chairman, Mizanur Rahman, has publicly called on the government to drop those charges.

"This government while in opposition and in its early days in power, declaimed RAB excesses and promised a zero-tolerance approach toward such abuses," Adams said. "These latest actions to punish a Rapid Action Battalion victim, instead of to protect him, only perpetuates RAB impunity."

Source: Human Rights Watch.

LAW WEEK

ICT-1 gets new judge

President Zillur Rahman appointed High Court Division Judge Jahangir Hossain Selim as a member of International Crimes Tribunal-1 on August 29 following the resignation of a tribunal judge. Justice AKM Zaheer Ahmed on August 28 resigned as a judge of the ICT-1 due to his physical illness. The government issued two gazette notifications on August 29 one on the new appointment and another on the acceptance of Justice Zaheer's resignation. Earlier, the chief justice approved a government proposal for appointing Justice Jahangir as a tribunal member following a request from the ministry of law. - *The Daily Star online edition August 29 2012.*

Rab source' summoned

A Jhalakathi court August 28 asked "Rab informant" Ibrahim Hawlader to appear before it on September 26 for attacking Limon Hossain and his family and threatening them with death. Senior Judicial Magistrate Shahidul Islam issued the order after Rajapur police gave him a report against Ibrahim and his associates and sought the summons. On the afternoon of August 20, Eid day, Limon and his family members came under attack led by Ibrahim on Saturday-Idurbari road in Rajapur upazila, Jhalakathi. The police report came following a GD Limon's mother Henoara Begum had filed with Rajapur police station hours after the incident. - *The Daily Star August 29 2012.*

HC issued split verdict

The High Court on August 27 issued a split verdict on a petition filed seeking its directives on the government to immediately start the admission process at medical and dental colleges by holding a test. Justice Qamrul Islam Siddiqui, senior judge of an HC bench formed to hear the petition, directed the authorities concerned to immediately start the admission process, while junior judge of the bench Justice Md Ashraful Kamal rejected the petition. The HC bench will now send the petition along with its dissenting orders to the chief justice for a decision, Attorney General Mahbubey Alam told The Daily Star. The chief justice will refer the matter to another bench of the HC for its disposal. - *The Daily Star August 28 2012.*

NHRC will file writ to find case against Limon

The National Human Rights Commission (NHRC) will file a petition on September 02 with the High Court demanding a judicial probe into the incidents involving Jhalakathi college student Limon Hossain who was maimed by Rab last year. "I believe a judicial probe will find the cases filed against Limon false," NHRC Chairman Prof Mizanur Rahman said. Once the judicial probe unearths the truth, NHRC would file a compensation case for him, he said, adding that the human rights body was always ready to provide full legal aid to Limon. The decision came when Limon came into limelight again following an attack on Limon, his mother and brother by a Rab source Ibrahim Hawlader in Jhalakathi on

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