



Doubtful commitment to human rights

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BANGLADESH is a party to eight out of nine core human rights treaties. They are the International Covenant on Civil and Political Rights, 1966 (ICCPR); the International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR); the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW); the Convention against Torture and Other Cruel, Inhuman or

Degrading Treatment or Punishment, 1984 (CAT); the Convention on the Rights of the Child, 1989 (CRC); the Elimination of All Forms of Racial Discrimination, 1965 (ICERD); the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990 (CMW) and Convention on the Rights of Persons with Disabilities, 2006 (CRPD). The government of Bangladesh has registered several reservations and declarations in respect of all but the last three of the

aforementioned treaties.

While declarations and reservations are quite common state practices vis-à-vis multilateral treaties, the state practice of Bangladesh concerning declaration and reservation to multilateral human rights treaties deserves some serious consideration.

For example, the government whilst acceding to CAT made the following declaration: 'The Government of the People's Republic of Bangladesh will apply article 14 paragraph 1 in consonance with the existing laws and legislation in the country.' In addition to CAT, Bangladesh has made analogous declarations about article 11 of the ICCPR, and articles 2, 3, 7 and 8 of the ICESCR. Reservations have been registered in similar terms as regards articles 14 and 21 of the CRC, and, articles 2 and 16(1) (c) of the CEDAW.

Anyone having some knowledge in international law will readily recognise that these reservations are incompatible with the objective and purpose of the aforesaid human rights treaties and therefore, are not permissible; or international law does not allow a state party to invoke domestic law as a justification for failure to perform a treaty obligation. However, apart from jurisprudential perspective, Bangladesh's declarations/reservations to human rights treaties can be judged on their own merits also. What is point of signing a human rights treaty if the treaty itself remains subordinate to the domestic law of a country?

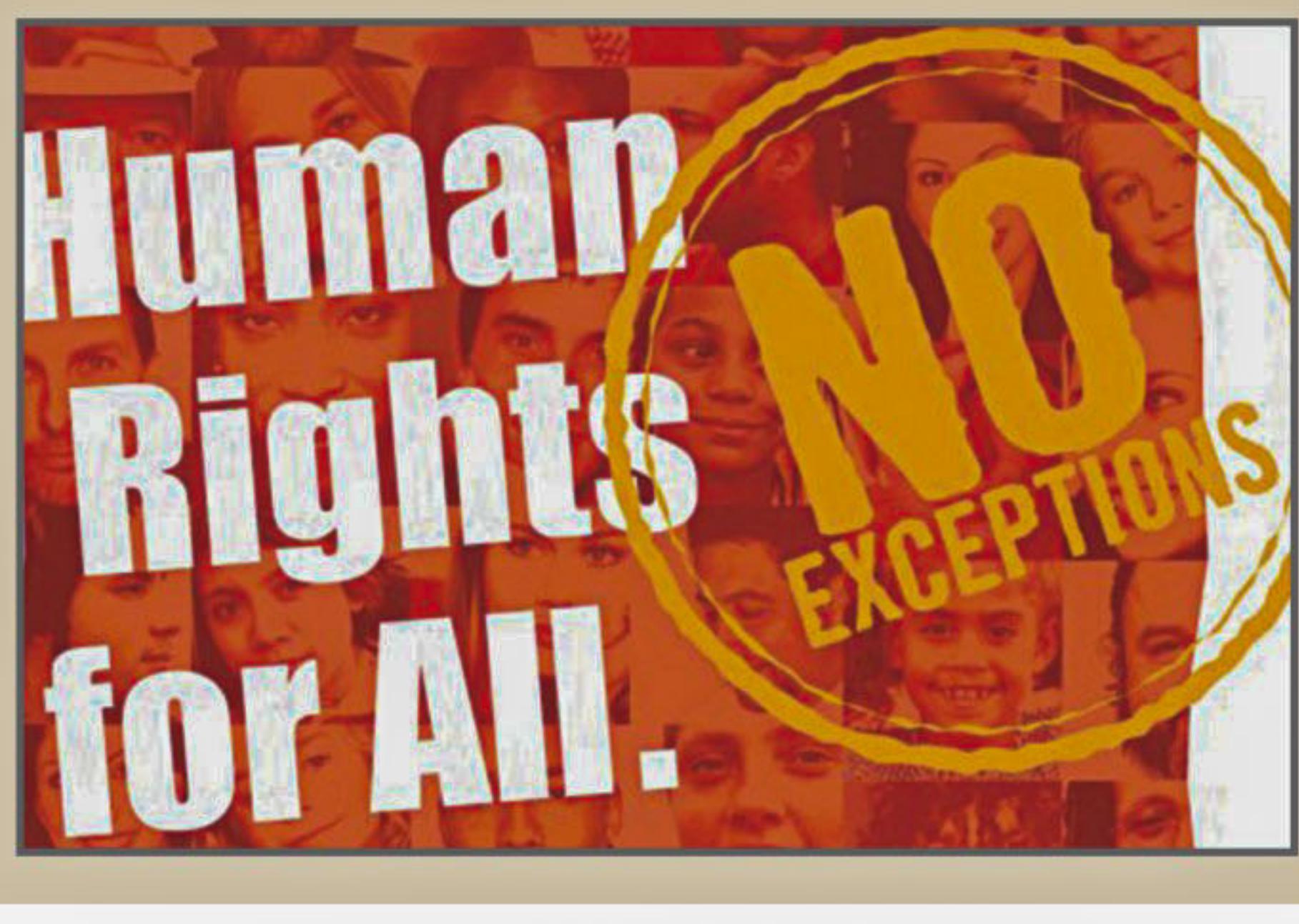
Bangladesh's reservation to CEDAW provisions presents even a worse case. Recently, Bangladesh has stated that it will not withdraw its reservation

to articles 2 and 16(1)(c) of the CEDAW (despite the Law Commission's recommendation to the contrary) on the grounds that these provisions are in conflict with Sharia law based on Holy Quran and Sunna. The problem is that a sizeable number of populations live in Bangladesh who do not profess Islam as religion and presumably, they do not necessarily share the same justification on which the reservation is premised. The aforesaid reservation to CEDAW provisions, in absence of any indication to the effect that it is limited to the Muslim population only, applies to the entire people of Bangladesh. Now, the question is why should a treaty reservation, which is purportedly justified on the grounds of Islamic Law, apply to the non-Muslim populations of the country? In effect, the reservation is utterly discriminatory because it deprives non-Muslims of the CEDAW protection for a reason that does not relate to them anyhow.

It's worth mentioning that the practice of Bangladesh concerning declaration and reservation to human rights treaties has not remained unnoticed by other states. A number of states have rightly objected that such declarations/reservations actually raise doubts as to Bangladesh's commitment to the object and purpose of the concerned treaties.

Lastly, Bangladesh's practice concerning declaration and reservation to human rights treaties at best indicates a piecemeal commitment to human rights. It is hoped that the government will wake up soon to regain its sense of perspective.

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LAW WATCH

The UN: Fostering or failing?

ALLUPOMA JOYETA JOYEE

CHALLENGES in implementing human rights through the UN mechanisms begin with the need to decide among competing priorities and strategically categorising the best use of its limited resources.

UN's peacekeeping force has pulled it back from implementing human rights, which to the naked eye seems

Allegations of rape and child sex abuse in Congo (early 2005) have nothing but increased the organisation's already subsisting challenges. Bangladesh genocide (1971) committed by Pakistani Army saw the massive letdown of this peacekeeping organisation plainly because there's no apparent consequence for violating a Security Council resolution. The restrictive administrative structure (especially

the agencies of the UN are being used for irrelevant political debate rather than their respective functions. The sensitive accusation of favouritism against the UN has been somewhat proved by UNSC solely addressing the calculated interests of its five permanent members (China, France, Russia, the United Kingdom and the United States) while plainly ignoring the poorer nations (for example, protecting oil-rich Kuwaitis in 1991 as opposed to worse-off Rwandans in 1997). Only to stir the pot, this peacekeeping body is further criticised for having its legislative, judiciary and executive branches concentrated in the UNSC - conflicting the idea of the UN being a democratic organisation. The five permanent members are allegedly the top five arms exporting countries (according to Stockholm International Peace Research Institute) which only lengthens the strings of challenges against the organisation that pledges to keep peace yet allots the highest authority to the countries most likely to instigate warfare for their own interests.

Opportune and precise information can possibly reduce politicisation and build consensus. Information about the abuse of human rights could prompt a basis for policy development while creating a diminishing effect on those who abuse it. Sadly, some regions have violated human rights so severely that these have been deemed to

become 'human rights free zone'. Strengthening relationship between the UNHQ and such regions may result into improvement of the situation.

The Arab-Israeli conflict has forever been a challenge to the UN. In 2007 UNHRC President Doru Romulus Costea admitted that the UN has failed to take care of it. Despite sponsoring several peace negotiations between Israel and its neighboring countries, there has been anything but peace in that region.

Furthermore, the catastrophic condition of human rights in Syria has swayed the confidence away from the UN. According to Professor Robert S Wistrich there hasn't been a single resolution mentioning the violations in Syria as opposed to those directed to Israel.

It's questionable whether the UN is relevant at all in this century at the face of fundamental miscarriage of the principles of peace upon which it was founded. Achieving the human rights goal isn't the UN's sole responsibility even though they have expressly and inherently volunteered to establish human rights. Undeniably the responsibilities are vested in the Member States. Although highly arguable, the United Nations remains an apparent agent to uphold human rights that can be better implemented if the challenges are overcome.

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like an ironic challenge. Though the peacekeeping force has done a praiseworthy job since its emergence, it has made major errors, among others, during Rwanda Genocide (1994) being largely ineffective to protect a million Tutsi minority from being killed; outright failure to undertake preventive measures in Srebrenica massacre (1995).

the controversial veto) has affected decisions relating to human rights.

Achieving the 30 rights under the Universal Declaration of Human Rights remains utopia and some of the failures must be attributed to the UN itself. Repeatedly they have been blamed for internal politicisation of the organisation which is to say that

LAW QUOTATIONS

"We envisage building a society that is truly safe, secure and sustainable for our future generation. Our government safeguards the independence and free space enjoyed by our media and civil society as an article of faith."

- Sheikh Hasina, Prime Minister of Bangladesh

"We don't have to stand by when the haters drive wedges of hostility between communities. We can build bridges."

- Zeid bin Ra'ad Zeid al-Hussein, United Nations High Commissioner for Human Rights.

"At a time of rising fear and intolerance, it is important to signal from on high that human rights apply to everyone, regardless of nationality, gender, race, or religion."

- Kenneth Roth, executive director of Human Rights Watch.

"Our relationships to one another - person to person, nation to nation - are defined not by our differences, but by our shared belief in the ideals enshrined in the Universal Declaration of Human Rights."

- Barack Obama, President of the United States of America

"We must always endeavour to do better, and be better, in our ceaseless pursuit of equality for all."

- Justin Trudeau, Prime Minister of Canada

"Standing up for the rights of others means standing up for the humanity we share."

- Irina Bokova, UNESCO Director-General.

NHRC Act needs to be reevaluated

Kazi Reazul Hoque is the Chairman of the National Human Rights Commission, Bangladesh. Prior to this role he also served the Commission as Full Time Member and played the Key Role in structuring & institutionalising the new commission since 2010. Keeping in mind this year's Human Rights Day 2016, Emraan Azad from Law Desk talks to him on the following issues.



of their human rights. Keeping in mind the findings of the survey and after the reconstitution of the Commission in August this year, we reformed nine thematic committees (such as: Committee on Women's Rights, Committee on CHT Affairs, Committee on Migrant Workers, etc.) with the decisions of our NHRC members and officials. It is to mention that these committees are not exclusively NHRC committees; rather they are the committees of human rights activists. Both government and non-government rights activists are members of these committees which work in a focused way to report on the situation of specific human rights.

LD: In recent time, minorities including Hindus and Santals are facing rampant human rights violations. What actions NHRC has taken in this regard?

KRH: We have already conducted several investigations on such incidents. And what our investigation report found was the 'negligent and lack of commitment' of the local administrations to prevent such incidents to take place. The NHRC believes local police, district administrative and union parishad offices didn't play their role effectively, and their failure and non-action particularly led to such drastic incidents. The concerned officials are thus responsible. Apart from that, some political elements (specially the political influence of the ruling party) allegedly caused the incidents. Moreover, the way Santal indigenous peoples were evicted was not appropriate. No one can be evicted from land without adequate notice. These incidents are clear violation of human rights - the reports of which we've already officially sent to the government. The NHRC was ready to file a criminal case on behalf of the Santals; but we are happy that a case is already filed in the police station and the High Court Division has already suo moto intervened into the matter. We will surely follow-up the matter.

LD: What would you say about the recent Rohingya crisis as well as the attitude of the government towards them?

KRH: I think the Myanmar government is primarily responsible to protect its peoples from violence and persecution. The crisis should be resolved by the Myanmar government by itself. Bangladesh is already overburdened with sheltering many

Rohingyas who are staying in the UNHCR camps of Bangladesh. Moreover, there are many undocumented Rohingyas. We have great sympathy for the Rohingya victims. But the question is: how long will we keep them in our country? We have showed our humanity towards them. If we allow them for time immemorial, we will be violating

protect human rights and empower its implementing tools?

KRH: One of the challenges that the NHRC has is the inadequate number of support staffs with required knowledge of human rights. We also believe that the existing law needs to be revisited extending the power of the



STAND UP FOR SOMEONE'S RIGHTS TODAY

rights of the local people. Border-side district like Cox's Bazar cannot afford 400,000-500,000 Rohingyas anymore. Allegations are also heard that these Rohingyas are associated with committing crimes such as human trafficking and trafficking of drugs and arms. When Bangladesh is dealing with the recent rise of terrorism, it cannot afford anymore Rohingyas with possible danger.

LD: What are the challenges for the NHRC to

Commission to directly investigate against the members of the Republic/public servants (specially the disciplined force or the police) for the allegations of human rights violations committed by them. Setting up of an independent secretariat is also a requirement for ensuring independence and effective functioning of the Commission.

KRH: Thank you for your time.

KRH: You are welcome.

LAW INTERVIEW

Kazi Reazul Hoque is the Chairman of the National Human Rights Commission, Bangladesh. Prior to this role he also served the Commission as Full Time Member and played the Key Role in structuring & institutionalising the new commission since 2010. Keeping in mind this year's Human Rights Day 2016, Emraan Azad from Law Desk talks to him on the following issues.

Law Desk: 'Stand up for someone's rights today' is the slogan of this year's World Human Rights Day. How do you plan to materialise the mandate of this slogan in the context of Bangladesh?

Kazi Reazul Hoque (KRH): Keeping in mind the importance of human rights for all, this year the National Human Rights Commission (NHRC) has translated the slogan in Bangla as follows: "Eso Sobai Oikko Gori, Sobar Odhikar Rokhha Kori". Due to the recent rise of extremism and terrorism globally, the significance of Human Rights Day 2016 has been felt so intensely not only in Bangladesh, but also in other parts of the world. Like previous years, we have observed the Day in collaboration with different NGOs working on various human rights issues domestically and internationally. In line with the slogan of Human Rights Day we have already established two regional offices in Rangamati and Khulna after six years of constant endeavour and advocacy. We plan to set up more eight district offices by June 2017. I believe local NHRC offices will help the victims of human rights violation take immediate step to have legal remedies.

LD: As we know the NHRC has some thematic committees to work for the protection and promotion of human rights. Would you explain how they work?

KRH: In association with the UNDP, we conducted a human rights perception survey to identify the most vulnerable communities and take concerted efforts for the protection