

**SPECIAL SUPPLEMENT COMMEMORATING WORLD HUMAN RIGHTS DAY 2017**

# Stand up for human rights

**T**HIS year's commemoration of Human Rights Day marks the beginning of a year-long celebration of seven decades since the adoption of one of the world's most profound and far-reaching international agreements. The Universal Declaration of Human Rights establishes the equality and dignity of every human being and stipulates that every government has a core duty to enable all people to enjoy all their inalienable rights and freedoms.



All of us have a right to speak freely and participate in decisions that affect our lives. We all have a right to live free from all forms of discrimination. We have a right to education, health care, economic opportunities and a decent standard of living. We have rights to

privacy and justice. These rights are relevant to all of us, every day. They are the foundation of peaceful societies and sustainable development.

Since the proclamation of the Universal Declaration in 1948, human rights have been one of the three pillars of the United Nations, along with peace and development. While human rights abuses did not end when the Universal Declaration was adopted, the Declaration has helped countless people to gain greater freedom and security. It has helped to prevent violations, obtain justice for wrongs, and strengthen national and international human rights laws and safeguards.

Despite these advances, the fundamental principles of the Universal Declaration are being tested in all regions. We see rising hostility towards human rights and those who defend them by people who want to profit from exploitation and division. We see hatred, intolerance, atrocities and other crimes. These actions imperil us all.

On this Human Rights Day, I want to acknowledge the brave human rights defenders and advocates, including UN staff, who work every day, sometimes in grave peril, to uphold human rights around the world. I urge people and leaders everywhere to stand up for all human rights – civil, political, economic, social and cultural – and for the values that underpin our hopes for a fairer, safer and better world for all.

**António Guterres**  
UN Secretary-General

# Human rights for better future

**H**UMAN Rights Day falls on 10 December every year, the day when, back in 1948, the Universal Declaration of Human Rights – the world's most widely translated and possibly most influential document – was proclaimed by the United Nations General Assembly, itself just three years old at the time.

While its promise is yet to be fulfilled, the very fact that the Declaration has stood the test of time is testament to the enduring universality of its perennial values of equality, justice and human dignity.



The Universal Declaration was drawn up by a world wounded by war, by representatives, and endorsed by leaders, of countries from all continents, who were – to quote from the Declaration's preamble –

fully, recently, sorely, aware that 'disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind.'

Today, as World War II and the Holocaust grow distant, that awareness appears to be evaporating at an alarming rate, and the enormous progress that has been achieved through progressive enactment of human rights principles, as laid out in the Universal Declaration, is being increasingly forgotten or wilfully ignored.

We see mounting cruelties and crimes being perpetrated in conflicts across the world; an antagonistic nationalism on the rise, with surging levels of racism, xenophobia and other forms of discrimination taking root.

The Universal Declaration is a commitment, by all States, that they will protect and promote human rights. It is essential that we continue to hold those States to account. But human rights are too important to be left to States alone – too precious to all of us, and to our children.

**Zeid Ra'ad Al Hussein**  
UN High Commissioner for Human Rights

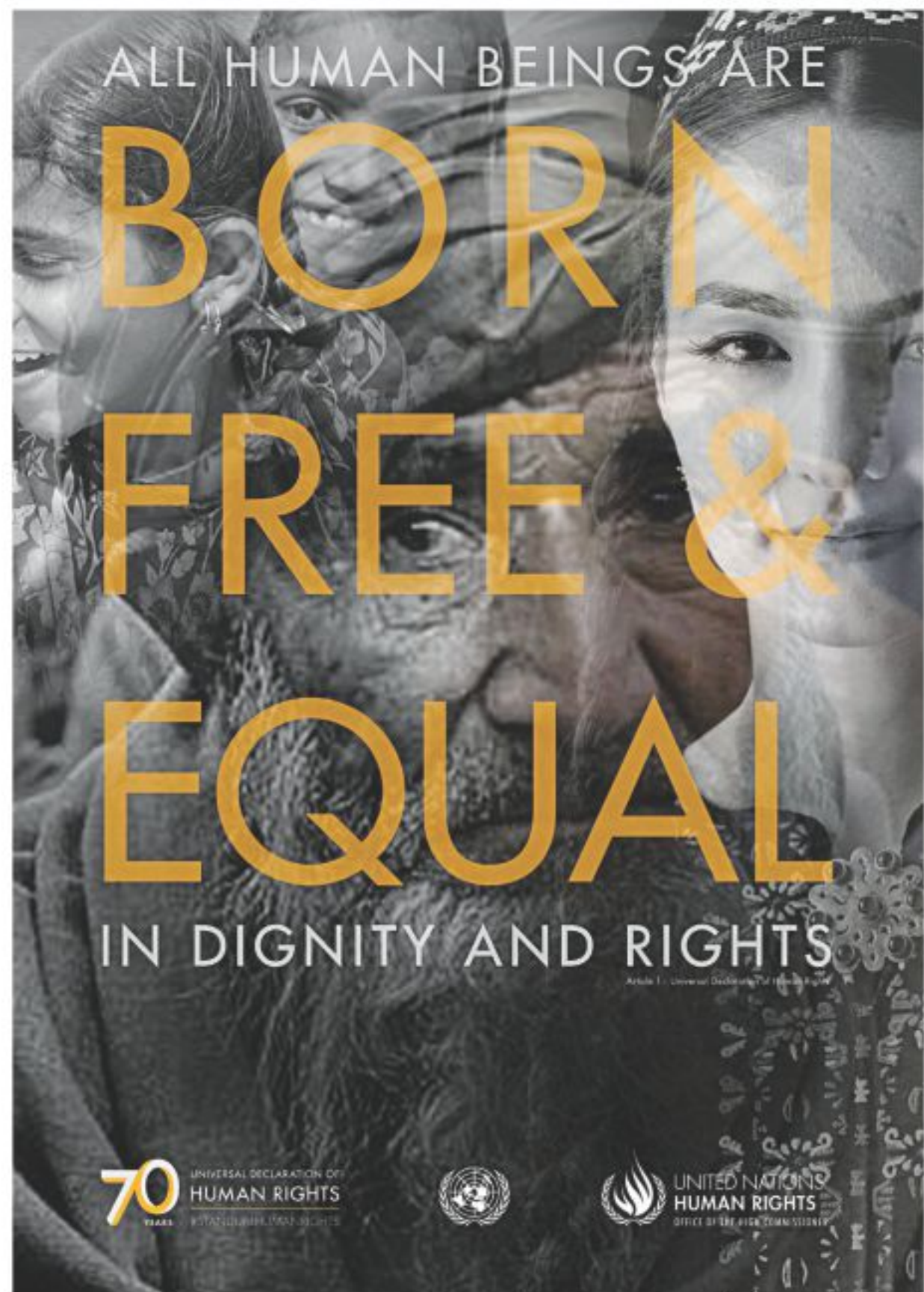
# CONSTITUTIONALLY RESPONSIVE equality, justice and human dignity

EMRAAN AZAD

**T**HE nine-month long war of liberation was fought in 1971 to defend, among others, people's rights, liberty and freedom. One of the reasons for which Bangladesh declared itself as an independent State from the brutal oppression of West Pakistan was "to ensure for the people of Bangladesh equality, human dignity and social justice". This is well-reflected in the historical text of the Proclamation of Independence which was adopted by the Mujibnagar Government in exile on 10th of April, 1971. As the historians show, the birth of Bangladesh is a result of colonial injustice and discrimination in all sectors, specially in the context of economic, political and cultural affairs. Many consider such historic injustice and discrimination, done by the Islamabad-based Pakistani government and now unquestionably well documented worldwide, motivated the Bengali population to fight against colonialism and bring forth freedom-equality-justice in the social, political and cultural landscape of Bangladesh.

Immediately after independence, Bangladesh adopted a Constitution in which the principles of human rights and justice were accommodated. Preamble announces that Bangladesh is committed to establish the rule of law and secure fundamental human rights, freedom, equality and justice for all citizens. Article 11 dreams of a democracy "in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed." As we know the Supreme Court of Bangladesh, under Article 102 read with Article 44, is empowered to enforce civil and political rights within the ambit of fundamental rights. The constitution framers did not make socio-economic rights 'judicially enforceable' arguing that the country's economy is not matured enough for their implementation. After four decades of independence, this argument carries no value in the polity of Bangladesh, given the economic progress the country has now. Despite their non-justiciability standing, socio-economic rights are constitutionally given the status of fundamental to the governance of Bangladesh, inspiration in making laws, guide to the interpretation of laws including the Constitution, and basis of the work of the State and of its citizens. As a whole, the constitutional fabric and framework absolutely proves that the makers of the Constitution were fully concerned about the protection and promotion of 'human rights' for the citizens.

As soon as the Constitution came into force, the implication of this constitutional vision started breeding fruitful meaning in the lives of many individuals, specially those who are poor, destitute, deprived, marginalised and rights-unconscious. With the emergence of Public Interest Litigation and legal aid mechanism, people are now enjoying their constitutionally guaranteed human rights. Nevertheless, we still see human rights violation and discrimination in various sectors. Women are being sexually harassed and incidents like gang rapes, trafficking and acid terrorism against women are being reported. Liberal and free thinkers are being killed and suddenly disappeared. Communal intolerance in the form of atrocities is often taking place against religious and cultural minorities. Dalit



and transgender population are getting ostracised by State and non-State actors due to their identity construction. And what not? Year after year, many laws, policies and strategies are being made for protecting people's rights and freedom. But nothing is preventing all those injustices from happening and these are making the constitutional discourse on equality, justice and human dignity a futile exercise and charade.

Perhaps, we have derailed from understanding the historic significance and constitutional aspirations of our country. Genesis of Bangladesh is deeply rooted in our own history of struggle and movement for freedom and liberty. What our forefathers had once dreamt of is nothing but founding a country which would never forget its past memories of Pakistani oppression and remembering that this very country would step towards ensuring equality, justice and human dignity for all – irrespective of any identity, religion, age, gender or occupation. All our success stories of development, economic progress and technological advancement are must to fade away, if we do not take care of our constitutional promises. Taking positive vive from all good instances of people's empowerment, on the World Human Rights Day, let's stand up for equality, justice and human dignity in the spirit of country's constitutional pledges.

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*The theme of 2017's World Human Rights Day is 'Let's stand up for equality, justice and human dignity.' In the spirit of this theme and to make people aware of fundamental freedom and rights, and to provide them with a platform to come forward with their opinions, suggestions, ideas, and of course criticisms, Law & Our Rights has organised a legal write-up competition. The submissions were overwhelming and among our participants were students, academics, professionals, rights activists, and even rights conscious ordinary citizens from different sectors. On today's issue we hence publish the best two write-ups.*

# Call for ensuring quality education

MUHAMMAD MAHDY HASSAN

**T**HE World Human Rights Day that bears also special significance for Bangladesh which is an outcome of one of the human rights, i.e. 'Right to Self Determination'. All human rights enshrined in the UDHR are relevant for all of us in everyday as they were in 1948. We, therefore, should know our rights. Here, the human rights education can play an important role and the young people should come forward in this regard.

Right to Inclusive and Equitable Quality Education (Hereafter IEQE) is not only a human right in itself but also is quintessential for the exercise of all other human rights. Realising this importance, Sustainable Development Goals (SDGs) provide in Goal No. 4 a detailed outline, indicators and targets in order to ensure IEQE. In defining IEQE, the UNESCO emphasises quality learners (such as Early Childhood Development), quality learning environments (such as inclusive school environment and quality of infrastructure), quality content (such as student-centered, human rights addressing equality and non-discriminatory, standards-based curriculum structures etc), quality processes (such as continuing support for student centered-learning) and quality outcomes.

Realising the importance of IEQE for the next generation is unquestionable. Bangladesh as a UN member state is obligated to ensure IEQE according to ICESCR (Article 13) and UNCRC (Articles 28 and 29). Its commitment has been reflected in Articles 15 and 17 of its Constitution, and other domestic laws and policies such as the Compulsory Primary Education Act of 1990, the Rights and Protection of the Persons with Disabilities Act of 2013, the Perspective Plan 2010-2021, Vision 2021, National Sustainable Development Strategy, and the Seventh Five Year Plan 2016-20, etc.

However, evidence shows that despite huge success towards increasing access to education and enrolment rates, in practice, Bangladesh is still lagging far behind to ensure IEQE. Still there are enormous gaps between laws-policies and practice-implementation since domestic laws and policies has not adopted the principles of IEQE yet. For instance, the provision of education stated in Articles 15 and 17 of the Constitution is still not judicially enforceable. In the Compulsory Primary Education Act of 1990, the coverage and quality remains poor. The Draft Education Act of 2016 has no mentioning of adequacy and efficiency of resources and budgets for education,

resource mobilisation and allocation. Still the existing policies promote different types of education system which is a barrier for the uniformity and quality.

To ensure the right to IEQE and achieve the SDG Goal 4, it is an urge to the government and relevant stakeholders to take the following policy recommendations into consideration: (i) include human rights education in the national curriculum from primary to tertiary; (ii) revise the Draft Education Act in light of the principles of IEQE; (iii) implement the existing laws against child marriage and promote the education of the girl child in particular; (iv) implement the Bangladesh Persons with Disability



Welfare Act of 2001 and the Rights and Protection of the Persons with Disability Act of 2013; (v) amend existing laws and policies incorporating the provision of IEQE; (vi) amend the constitution inserting right to IEQE provision in Part III of the Constitution as fundamental right; and (vii) ensure the accountability in education sector.

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# Legal approach to cyber privacy

RAYHANUL ISLAM

**T**HE contemporary development of technology has changed lives in many ways. A new interconnected space called cyberspace has taken over the traditional way of living on a worldwide platform. Unlike any other platform it brought its own issues of concern. Moreover, the global character of this technology made it complicated to address specially when the human rights issues are concerned. Human rights are guaranteed in all the spheres of life and the web world, or say 'e-world', is not an exception.

The UN Human Rights Council has stated that

This is known as 'Nudging' and considered harmful to individual liberty.

Often the question arises that whether human rights should allow people to maintain anonymity. It is a right of an individual as to how he wants to present himself and not to be presented in a way that may hurt his/her interest. This concealment can be an example of dignity and self-respect and it is the enjoyment of freedom and right to privacy which is protected by human rights.

In our constitution, the same idea is reflected in Articles 32 and 39 which dealt with protection of the right to life and personal liberty and freedom of thought and conscience and of speech, accordingly.

As cyberspace is borderless a new concept of 'Universal Individual Privacy' has emerged to meet the demand of the necessity. Having new issues like this the world community tried to address this issues with some remarkable initiatives. A data protection directive has been adopted by European Union (EU) in 1995 which prohibits the state from targeting, data collection, analysis, shortlisting or discrimination without prior permission and also ensure various other benefits and rights to the subject.

Another remarkable effort should be mentioned, i.e. the Convention on Cybercrime in 2001. This Convention criminalises certain actions or omissions and attempts to protect the countries under one umbrella to solve various existing challenges of e-world. More specifically the Convention deals with cybercrime, hate crime, security, copyright issues, etc. This Convention creates a clear bond among the countries on implication level by solving various problems including jurisdiction. As a result it has been attracted by 56 signatories worldwide, though the initiative had taken by the EU.

These legal approaches become futile on the scale of global application. Though we can interpret most of the existing laws to ensure human rights issues, the reality suggests that we are still far from a total protection under the law. Not only individuals but states can also be compromised if we do not take the challenge seriously. It is time to put our efforts on the technological development in order to ensure a safe and secured e-world for all human beings.

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