

HUMAN RIGHTS DAY

The NHRC has fundamental flaws



Sultana Kamal is a human rights activist.

SULTANA KAMAL

That the National Human Rights Commission (NHRC) of Bangladesh has come second-to-last in South Asia—as per an evaluation by the Asian NGO Network on National Human Rights Institutions (ANNI)—does not come as a surprise. The NHRC is riddled with many issues that prevent it from executing its mandated duty of upholding human rights in the country. The commission is an independent, statutory body on paper, authorised to monitor and investigate violations of human rights—no matter who the perpetrators may be. But in reality, it is far from being independent. Its recruitment process is heavily influenced by the government.

The founding principles of the National Human Rights Institutions (NHRIs) are known as the Paris Principles. These principles are regarded as the guiding principles for the formation and functioning of the commissions. They direct that the legal status of a commission has to be strong enough for it to be able to exercise its power independently. Secondly, the selection procedure of its commissioners will have to be open and credible.

In Bangladesh, the seven-member selection committee for the selection of human rights commissioners is headed by the Speaker, whereas most of the other members are appointed from the bureaucracy. This itself lowers the credibility of the NHRC to a considerable extent. Not only that, procedurally, according to the Paris Principles, to recruit the chairperson, the full-time member as well as the other members of the selection committee are directed to send two credible names from among the civil society against each position to the president. It is also said in the Principles that one member should be selected from the opposition political parties. The president will then appoint the commissioners from the recommended names.

So far, we have never seen this procedure being followed. Rather, we have witnessed former bureaucrats in the leading position at the NHRC, with rare exceptions. Given their previous affiliations with the government, it is hardly a shocker that they won't take actions that could displease government high-ups. When this is the case, how is the commission supposed to do its job? This is a fundamental flaw that weakens the NHRC's authority as the advocate and protector of human rights in Bangladesh.

The commission also lacks independence in dealing with its own finances as the budget for its expenditures

are allocated to the Ministry of Law and not directly to the NHRC itself. This too creates an opportunity for the Executive to control the activities of the Commission. The NHRC also suffers from serious weakness in its mandate, specifically regarding its power to investigate certain bodies such as the armed forces and other law enforcement agencies. The text related to the commission's jurisdiction on the above is full of ambiguity, which allows the concerned NHRC officers to interpret their responsibility as they see fit. This is why, even though it is not obligated to the government

and has the legal grounds to do its work independently, the NHRC cannot toe certain lines.

The assessment by ANNI does not reveal anything new. And it is unlikely to change for the better unless the NHRC is given the independence guaranteed by the Paris Principles, in order to do its job properly.



Dr CR Abrar is an academic with an interest in human rights issues.

DR CR ABRAR

"Freedom, Equality and Justice for All" is the theme for this year's Human Rights Day. However, the fundamental tenet of the Universal Declaration of Human Rights—of dignity and equality in rights—has come under major assault in Bangladesh in recent times. In a political dispensation that systematically and

Human rights enjoyment in a red zone?

severely curtailed many fundamental freedoms of the citizenry (including those of freedom of expression and assembly and the right to protest) through the application of restrictive laws and deployment of law enforcement agencies, the opposition boycott of the national polls triggered a massive clampdown on October 28.

The crackdown has resulted in the arrest and detention of tens of thousands of activists. The families of those detained have reported police's highhandedness at the time of arrests. In a number of instances, relatives of those absconding were also picked up. With an increased number of inmates, the prison system now holds more than double its capacity. Several cases of deaths in custody of recent detainees have been reported.

Many of those detained have subsequently been implicated in cases in which unidentified persons were recorded as perpetrators of acts of violence. A large section of the detainees claim they have been wrongly implicated in fictitious cases. The shoddiness of the investigation process is especially

number of opposition activists. Perhaps in the zeal to sentence opposition leaders and activists before the election so they stand barred from contesting it, the frequency of court dates reached a new height. In some instances, the proceedings continued till late in the evenings.

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Inequality in accessing justice is stark. The case involving Parul (a mother of four, who was gang-raped after she voted for BNP in the 2018 election) still remains pending, while investigation involving thousands of BNP activists are now being completed over a very short period. The travesty of justice becomes obvious when high-ups from the police issue instructions to ensure that investigating officers stick to the accounts in the charge sheet when being cross-examined under oath, and otherwise face consequences.

The homes and property of opposition activists were vandalised allegedly by supporters of the ruling party (on occasion by individuals wearing helmets to conceal their identity). The victims' families have complained that law enforcers failed to provide them protection. On other occasions, ruling party supporters took the law into their own hands, detained opposition activists, and handed them over to the police, often after brutalising them.

Conscientious citizens are concerned about the authorities resorting to intimidation, violence, and arrest in dealing with human rights defenders, journalists, and protesters. They are dismayed by the state's failure to hold the ruling party supporters to account. In the run-up to the national election, such actions have come under international scrutiny as well and resulted in CIVICUS Monitor, a globally renowned institution, to downgrade Bangladesh's civic space to be seen as "closed"—its worst rating.

There is a strong case to reverse the current course. And for doing so, the government must bring an end to the prevailing practices that have contributed to major human rights violations. No less important is the creation of an enabling condition that will allow all political parties to genuinely participate in elections.

Democracy is in distress



Irene Khan is UN Special Rapporteur on the promotion and protection of freedom of opinion and expression.

IRENE KHAN

International Human Rights Day, marking the 75th anniversary of the adoption of the Universal Declaration of Human Rights, comes at a dark moment. People, the planet, and polls are in jeopardy.

The world watches in shock and horror, the relentless, disproportionate, indiscriminate killing by Israel of Palestinian children, women, the elderly, and the vulnerable in Gaza—unable to stop the carnage in the face of US support and veto power in the UN Security Council. Russia's audacious invasion of and attacks on Ukraine also continue unabated, buttressed by the former's veto power.

While these crises dominate international media, other entrenched and emerging conflicts that have become invisible to it are still visibly crushing human rights in many places around the world.

Turning from conflicts to climate, COP28 is coming to a close, hosted by a globally leading oil-producing nation, chaired by the chief executive of its largest oil company, and allegedly promoting fossil fuel deals on the sidelines. Under these circumstances, it takes foolhardy optimism to expect meaningful action on the climate crisis

and the right to a clean, healthy, and sustainable environment.

In September this year, the UN Sustainable Development Goals Summit papered over the lack of commitment and resources to achieve the global goals which governments themselves adopted in 2015. Digital technology and artificial intelligence have opened up new opportunities but also introduced new forms of inequality and risks, which neither businesses nor governments are tackling. Youth unemployment, rising food prices, increasing environmental disasters, and households struggling to survive are some signs of bad times ahead.

Democracy is in distress. More than half of the world's population live in countries that will go to the polls next year. That includes the United States, the world's oldest democracy, and India, the world's largest democracy—as well as Bangladesh. The Economist predicts that "many elections will entrench illiberal rulers" or "reward the corrupt and the incompetent."

Backsliding on human rights by liberal democracies across the world casts a dark shadow that we are ignoring at our peril.

In recent months, we have seen in

Bangladesh a severe crackdown on ready-made garment industry workers demanding a living wage, and mass arrests of political activists calling for free and fair elections.

Threats, attacks, surveillance, intimidation, and legal harassment of journalists and media workers in recent years have led most editors and broadcasters to self-censor in order to keep their outlets functioning. Those who still dare to print without fear believe that they will be brought to heel by the authorities soon.

The government's claim of upholding the rule of law belies reality. Police detain the teenage son or the elderly father when they cannot find the political activist they want to arrest. A teenage girl is imprisoned for over a year for organising a webinar in which a participant criticised the government. The prosecution admits in open court that it cannot find evidence against a journalist and the judge orders them to continue investigating until they do find something.

These are not isolated incidents but a pattern of creeping authoritarianism.

What does equal protection under the law—a fundamental principle of human rights—mean when parents have the legal right to consent to the marriage of a minor girl to her rapist? Or when developers are free to grab arable land and dispossess farmers, with impunity?

Whether you need to renew a driving licence, set up a small business, report a serious crime to the police, or seek admission of your child to the local school, as an ordinary citizen you are acutely aware of the daily failure of the

State to protect your rights.

Vested political and economic interests have captured almost every institution of the State. Gagging the free press, locking up critics, delegitimising human rights defenders, and restricting civil society will strangle the remaining avenues for holding the government to account.

Can democracy and development survive this onslaught on human rights and the rule of law?

I applaud the significant progress that Bangladesh has made on many fronts under this government—including the empowerment of women and girls, eradication of extreme poverty, and the expansion of basic services and infrastructure. But I despair of their sustainability and continued progress if they are not bolstered by respect for human rights.

Development is sustainable not only when it incorporates economic, social, and environmental dimensions, but because respect for human rights makes it just, inclusive, and transformational. That is clearly acknowledged in the UN Agenda for Sustainable Development, which Bangladesh has enthusiastically endorsed.

The prime minister showed leadership, foresight, and commitment to her people's struggle for freedom when she signed up to the key international human rights instruments in 2000. People are looking to her to preserve that legacy by upholding their rights.

The Universal Declaration of Human Rights remains as valid today as the day when it was adopted three quarters of a century ago.

Separation of judiciary still a far cry



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MD MASDAR HOSSAIN

The Constitution of Bangladesh incorporates human rights principles, including equality and non-discrimination, right to life and personal liberty, freedom of speech and expression, freedom of religion, safeguards against arbitrary arrest and detention, and prohibition of torture and cruel treatment.

Concerns have been expressed about freedom of expression in Bangladesh, including harassment of journalists. Labour rights breaches include dangerous working conditions and low labour standards. Violence against religious and ethnic minorities has also been reported, emphasising the need to address human rights issues in the country.

Now former BNP Vice Chairman Shahjahan Omar, who was detained for setting a bus on fire in Dhaka's New Market on November 4, was released on bail on Wednesday evening. After several BNP leaders were arrested following the October 28 clash, he was the first to be released. After securing bail, he submitted a nomination paper as an Awami League candidate for the Jhalakathi-1 constituency for the 2024 national election. This shows that equality before the law and equal protection by the law have become mere words.

We have seen in a number of nations that the judiciary can be instrumental in safeguarding human rights and even in influencing policy decisions. As predicted in the Masdar Hossain Case's judgement, the independence of the judiciary in Bangladesh has not yet been realised; consequently, the judiciary lacks the capacity to enforce Articles 27 and 31 of the Constitution of Bangladesh, which uphold the crux of human rights.