

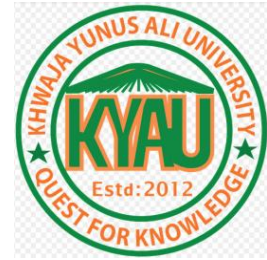
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Research Article

A Critical Analysis on the Motto of the National Human Rights Commission and Its Dissimilarities: Bangladesh Perspective

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ABSTRACT

Human rights are the birthright of human beings. Irrespective of state, caste, religion, or creed, everyone has human rights that can never be transferred, and no one can curtail human rights. Human rights are universally recognized. Various human rights organizations have been formed to protect the human rights of all people around the world, and international and domestic laws have been enacted to ensure human rights. There have been two world wars in the world so far with bloodshed and gross violations of human rights. Especially the horrors of World War II, which started in 1939 and finished in 1944. Which were so devastating and a disaster for human rights that it was a gross violation of human rights. After seeing the horrors of World War II, world leaders agreed that the Universal Declaration of Human Rights (UDHR) was promulgated on December 10, 1948, through the establishment of the United Nations in 1945. Respecting the Universal Declaration of Human Rights (UDHR), the member states of the United Nations, especially Bangladesh, have inserted fundamental rights in the constitution modeled after the Universal Declaration of Human Rights (UDHR) and established the National Human Rights Commission for the protection of human rights. This paper is to draw the definition of human rights, the history of the formation of the National Human Rights Commission, its structure, and its functions. Along with that, the objectives of the National Human Rights Commission, the contrast between the reality with the motto of the National Human Rights Commission, and the failure of the Human Rights Commission to solve or reduce the violations of human rights and emerging problems in Bangladesh will be highlighted, as well as some recommendations.

Keywords: Human Rights, International Law, Domestic Law, Violations

1. Introduction

Bangladesh is a member of the United Nations. As a member of the United Nations, Bangladesh has obligations to protect, promote, and enforce human rights and the development of human rights under a variety of international conventions and instruments, including the International Convention on Civil and Political Rights 1966 (ICCPR), the International Convention on Economic, Social, and Cultural Rights 1966 (ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and so on. To fulfill all the conditions and obligations of the international policy in

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Human Rights: The National Human Rights Commission was established in 2009. The National Human Rights Commission of Bangladesh could have played a significant role in safeguarding human rights. Because of some inherent lacunae in the National Human Rights Commission Act, 2009. 1

The Commission has, to a substantial extent, failed to promote, protect, and enforce human rights and human development in Bangladesh. More than 50% of people in this country do not know that there is anything called human rights. The people of Bangladesh are always being deprived of their human rights, but the National Human Rights Commission is not very aware of this. Apart from celebrating World Human Rights Day on December 10 every year and issuing press releases to the media, there is no visible action by the National Human Rights Commission. After establishing Bangladesh as an independent country on the world map through the Imperial Liberation War and becoming a proud member state of the United Nations, the continuous degradation of Bangladesh in the human rights situation index of different countries every year is questioning the National Human Rights Commission more and more. If we want to improve the human rights situation in Bangladesh, the National Human Rights Commission has to play an effective role, which is possible through concrete implementation.

Objectives:

1. To talk about the history of the establishment of the National Human Rights Commission. 2. To talk about the human rights situation in Bangladesh, 3. To Talk about the role of the National Human Rights Commission in protecting human rights., 4. To Talk about the contrast between the reality and the objective of forming the national Human Rights Commission to protect human rights., 5. To know about the recommendations regarding the roles that the National Human Rights Commission can play in improving the overall human rights situation.

Methodology:

This article is qualitative. It provides an analytical and comparative discussion of human rights and the role the National Human Rights Commission in Bangladesh from aspects. For this purpose, We have used data and information from secondary sources, like facts, figures, data, books, journals, reports, the Internet, newspapers, online portals, and so many things. Relevant judicial decisions have been collected from famous journals and books. Several books have been studied and consulted to find the necessary information. Various national newspapers have been critically observed.

Definition of Human Rights:

Human rights are the birthright of any person. The word "human" evolved from the Latin word "*humanus*", which means any view in which the interest of human welfare is central." 2 According to Black's Law Dictionary, human rights mean "human rights. The freedoms, immunities, and benefits that, according to modern values (especially at an international level), all human beings should be able to claim as a matter of right in the society in which they live. See Universal Declaration of Human Rights.3

Human rights are those of legal and moral rights that can be claimed by any person for the very reason that he is a human being. These rights come with birth and are applicable to all people throughout the world irrespective of their race, color, sex, language, or political or other opinion. The most taxable definition of human rights we can find is in the preamble of the Universal Declaration of Human Rights (UDHR). The human rights mentioned here are the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family as the foundation of freedom, justice, and peace in the world.

History of the Establishment of the National Human Rights Commission:

The National Human Rights Commission (NHRC) is an autonomous republic body of Bangladesh that came into existence in December 2007. It established the caretaker government of Bangladesh. The organization was formed under the provisions of the National Human Rights Commission Ordinance. It was re-established by the National Human Rights Commission Act, 2009, after the repeal of the original ordinance.

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It was later reorganized in 2009 as the National Advocacy Institute for the Promotion and Protection of Human Rights. It is committed to the achievement of human rights in the broadest sense, including the dignity, worth, and freedom of every human being, in accordance with the Constitution of the People's Republic and various international human rights conventions and treaties to which Bangladesh is a signatory. It was established in 2007 but officially launched in December 2008.

International Commitments Behind the Formation of the National Human Rights Commission:

As Bangladesh is a member of the UN, Bangladesh must obey, follow, and fulfill all criteria to ensure human rights. Bangladesh has commitments to protect, promote, and enforce human rights and human development under the charter of the United Nations. International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social, and Cultural Rights (ICESR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Universal Declaration of Human Rights (UDHR), Convention on the Rights of the Child 1989 (CRC), Convention on the Elimination of All Forms of Racial Discrimination 1965 (CERD), Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment 1984 (CAT), Convention on the Rights of Persons with Disabilities, 2006 (CRPD), SDGs, Paris Declaration, and Vienna Declaration. The underlying purpose of the UN Charter is to impose an obligation on its members to take the initiative to respect and recognize human rights and the fundamental freedom of people without any distinction as to race, sex, religion, ethnicity, or language. One of the core goals of it is to ensure peace within and among states.

Composition of the National Human Rights Commission:

According to Section 5 of the NHRC Act, 2009, there shall be 1. The commission shall consist of a chairman and members not exceeding six., 2. The chairman and one member of the commission shall be full-time, and other members shall be honorary., 3. Among the members, at least one shall be a woman and one shall be from the ethnic group., 4. The chairman shall be the chief executive of the commission. 6

Appointment, tenure, and resignation of chairman and members of the National Human Rights Commission:

According to the provisions of section 6 of the National Human Rights Commission Act, 2009, The President shall, on the recommendation of the Selection Committee, appoint the Chairman and members of the Commission: (1) Provided, however, that no person shall be eligible to be appointed or hold the post of Chairman or Member of the Commission if he is less than 35 (thirty-five) years old and more than 70 (seventy) years old. (2) The chairman and members shall, subject to the provisions of this section, be appointed from among persons who have made significant contributions to law or justice, human rights, education, social service, or human welfare. (3) The Chairman and members of the Commission shall hold office for a period of three years from the date of assumption of office. Provided that the same person shall not be appointed for more than two terms as Chairman or Member. (4) The Chairman or any member may resign his office at any time before the expiry of the term prescribed under sub-section (3) by written notice addressed to the President. (5) If the post of Chairman becomes vacant or if the Chairman is unable to perform his duties due to absence, illness, or any other reason, the whole-time member shall serve as Chairman until the newly appointed Chairman joins his post or until the Chairman is again able to perform his duties. 7 Selection Committee of the National Human Rights Commission:

Section 7 of the National Human Rights Commission Act, 2009, provides that a selection committee consisting of the following seven members shall be constituted to make recommendations for the appointment of the chairman and members, namely: (a) the Speaker of the National Assembly, who shall also be its President; (b) the Minister in charge of the Ministry of Law, Justice, and Parliamentary Affairs; (c) the Minister in charge of the Ministry of Home Affairs; (d) Chairman, Law Commission; (e) Secretary to the Council of Ministers, Department of the Council of Ministers; (f) two Members of Parliament nominated by the Speaker of the National Parliament, one of whom shall be of the Government and the other of the Opposition. (2) The Ministry of Law, Justice, and Parliamentary Affairs shall provide necessary secretarial support in the performance of the selection committee. (3) The quorum of the selection

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committee shall be formed in the presence of at least 4 (four) members. (4) The selection committee, chairman, and members shall recommend the names of two persons against each vacant post based on the decision of the majority of the members present at the meeting for the purpose of making recommendations for appointment, and in case of equality of decisions, the person presiding over the meeting shall have the right to give the decisive decision. (5) The selection committee may determine the procedure for its meetings. 8

Functions of the National Human Rights Commission:

1. Apart from entertaining complaints, the NHRC can exercise the power of *suo motu*.
2. The NHRC can ask for a report from the disciplinary forces, the law-enforcing agencies, or any of its members on the allegation of human rights violations. The NHRC can visit any jail, correctional center, custody, or other place and make recommendations to the government thereon for the development of those places and conditions. The Commission can inquire into and report a matter being referenced by the Supreme Court of Bangladesh on a writ petition heard by it. The Commission enjoys the power of a civil court in the event of any inquiry or investigation. The Commission is empowered to appoint mediators according to established rules to dispose of a dispute relating to a violation of human rights. In cases of non-compliance with the reports and recommendations, the Commission can bring the matter to the attention of the President, who shall cause it to be laid before parliament. The Commission can ask for information from governmental authorities on any alleged violation of human rights, and the government is required to give the information. In the event of a failure to provide information, the Commission can start to work on its own initiative. Even the Commission itself can lodge an application with the High Court Division if the case fits with the conditions of filing writ petitions under the Constitution. Apart from suggesting legal remedies, the commission is endowed with the power to recommend that the government provide a temporary grant to the aggrieved person or his family. The commission can publish the inquiry report fully or partially at its own satisfaction. The witnesses before the Commission are protected for their deposition. 9

Human Rights Situation in Bangladesh:

After the independence of Bangladesh, the National Human Rights Commission was formed in 2009 to protect human rights. Although the National Human Rights Commission was established late, the question remains as to how satisfactory the human rights situation in the country is. The picture of human rights will emerge through some practical examples of the human rights situation in the country.

Extrajudicial killing:

Between January and October 2005, an estimated 300 civilians died due to "encounter" by RAB 10. From October 2002 to January 2003, approximately sixty people have died from Operation "Clean Heart." The year 2018 created a new precedent in extrajudicial killing in Bangladesh. According to *Ain o Saliyah Kendra* (ASK), from January to October, 437 people have died by extrajudicial killing. In 2023, 24 people are alleged to have been victims of extrajudicial killings. Among them, one was a *Rohingya* refugee. Among the 24 persons killed extra judicially, four were killed in "crossfire/encounters/gunfights", eight persons were tortured to death, 11 were shot to death, and one was beaten to death during this period. It is also alleged that among the deceased, three were killed by the RAB, 16 by the police, two by the DB Police, and three by the BGB (Annual Human Rights Report by *Odhikar*, 2023). In 2022 and 2023, respectively, 19 and 20 people have died by extrajudicial killing. 13 Only extrajudicial killings can show the severity of the human rights situation in Bangladesh. At least 24 extrajudicial killings had been reported in 2023 by Annual Human Rights Report by *Odhikar*, 2023. At least 21 extrajudicial killings had been reported in 2024 and of them, 12 were reported since the Professor Muhammad Yunus-led interim government took oath on August 8 after the fall of the *Awami* League government on August 5. (New Age, 5th January, 2025). The human rights situation in other sectors, like arbitrary arrest and detention, unlawful torture and inhuman treatment, forced disappearance, violations of women's rights, and violation of freedom and press rights, is even worse.

The true role of the National Human Rights Commission in the protection of human rights:

The motto of the National Human Rights Commission is Human Rights for All, Everywhere, Equally, but it is a big question: Does the Human Rights Commission fulfill their motto? After the establishment of the National Human Rights Commission, this question was always turning in our mind. The helplessness of the National Human Rights Commission can be seen in various surveys that show how much role the National Human Rights Commission is playing in the protection of human rights or equal human rights protection for all. According to Section 6 of the National Human Rights Commission Act, 2009, the President can only recommend to the selection committee who will be the chairman and other members of the National Human Rights Commission. And according to section 7, under the provisions of section 7, the ministers and secretaries of the law and other ministries of the government appoint the chairman and members. Bangladesh is a country of parliamentary democracy. In a parliamentary democracy, government and political parties cannot be separated in any way. In Bangladesh, those who are members of the Legislative Assembly are also members of the Council of Ministers. As a result, the chairman and members of the Human Rights Commission were appointed as demanded by the ruling political party. The chairman and members who were appointed on the basis of party considerations have turned this autonomous organization into an untouchable organization to achieve their own interests and to implement the secret conditions of appointment.

According to the National Human Rights Commission Act, 2009, the Commission has several functions and responsibilities. Reciprocal interaction with various state organizations in human rights protection, receiving reports from various departments, monitoring, sending recommendations to the government for improving the human rights situation, publishing annual reports on the overall human rights situation of the country, and other issues. But in a practical sense, the Human Rights Commission is not seen to do any of these on the ground. There is no resemblance between the report of the National Human Rights Commission and the report of the national and international human rights organizations on the overall human rights situation in the country. Under government-controlled pressure, all statistics are put to sleep, and reports are published with fabricated figures.

The founding chairman of the human rights commission. Mizanur Rahman highlighted his limitations at the 21st Century Leadership Skills Development Program at Rajshahi University in 2017. He describes how helpless he is to a government MP, regretting not being able to do anything for the victim. 14

Most recently the human rights institution has been closed due to the intervention of the "*Odhikar*" government, but no positive statement has been received from the Human Rights Commission in favor of "*Odhikar*". Apart from rights, there are more domestic and foreign organizations on human rights issues; they are constantly facing obstacles to work independently, but the National Human Rights Commission does not take any action in this regard.

The prominent Bangladeshi human rights activists advocate Sultana Kamal to uphold her thoughts about the National Human Rights Commission. She says, 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. – 15

Overall, the National Human Rights Commission has no significant role in human rights protection.

Recommendations

1. Recognition of the National Human Rights Commission as a constitutional body.
2. Ensure the Institutional Independence.
3. A neutral person, independent of party affiliation, should be appointed as a chairman and members of the commission.
4. Amendment of appointment committee and procedure.
5. Increase the number of members in the National Human Rights Commission.
6. Amend some provisions like powers and functions of the National Human Rights Commission Act, 2009.
7. Setting up a special human rights tribunal or court at every district in Bangladesh.
8. Power to enforce recommendations.
9. Giving freedom to the National Human Rights Commission so that it works conjointly with the foreign human rights organizations.
10. Widening the scope of the National Human Rights Commission Act.

Conclusion

In 1971, Bangladesh gained independence after a 9-month-long war based on the ideals of equality, human dignity, and social justice. The ideals of the Liberation War are essentially human rights, but it is unfortunate that till now the proper implementation of human rights is absent from our society and state. Although the National Human Rights Commission was framed to establish human rights, apparently the Commission is not able to play any leading role in the protection of human rights. From the present structure of the National Human Rights Act, it may be said that the victory of the Commission largely depends on the political violation of the government because the National Human Rights Commission has to rely on it to accomplish most of its mandates. Ultimately, political goodwill can make the National Human Rights Commission effective in protecting and ensuring human rights. As a member of the United Nations, Bangladesh has several responsibilities, one of which is to ensure and protect human rights. Every political party in Bangladesh will be aware of this and will strengthen the National Human Rights Commission, making the written objective a reality.

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