Chapter-one
Introduction

1.1 Introduction:

Implementation of human rights at the national level requires a range of mechanisms and strategies. The constitutional recognition of human rights is a first step because when human rights are incorporated in the highest-ranking national legal instrument, they enjoy the greatest authority and security in both their definition and their guaranteed observance (Marie, 2003: 258). In most of the countries, the constitutional entrenchment of rights usually means they are immune from any change by ordinary legislation adopted by simple majority of parliament and that gives stability in the enjoyment of these rights. Second, international human rights treaties are incorporated within the state's legal and political order so that they can be implemented and enforced by state authorities. Third, a strong judiciary is needed to provide effective remedy in case of violation of human rights. Fourth, states are required to adopt necessary laws and administrative procedures, which ensure that the human rights of everyone are guaranteed. Finally, it is the responsibility of the institutions such as national human rights commissions set up by the state to guarantee respect for human rights.

1.2 Background of the Study

This tough scenario requires mechanism to implement of human rights in Bangladesh, and this dream could become a reality. An honest and committed government can make this dream a reality. However, it is not something that can be achieved in the blink of an eye. It requires a lot of effort and sacrifice. Civil society can play an important role in this. Today it is very easy to use electronic media to raise public opinion for implement of human rights in Bangladesh. Gatherings and rallies are also very important tools to keep the implement of human rights in Bangladesh trend on track.

1.3 Statement of the Problem

Intellectuals, bureaucrats and civil society members alike are accepting the spirit of the concept and are conceiving in it the content of their own experience and environment. The Bangladesh government has recently been under construct pressure from various donor agencies for ensuring mechanism to implement of human rights. This presupposes freedom of information to ensure that the actions and decisions of law-makers.

1.4 Research Questions

This research is a collection of views and advice on composing research questions from problem statements. It mostly reads as a list of tips and suggestions.

- What is human rights? Be critical of Mechanism to Implement of Human Rights in Bangladesh?
- What is the relationship mechanism and human rights?

1.5 Objectives of the Study

The broad objective of the paper is to make an extensive study on good governance. In addition, this paper discusses present condition, importance and our expectation about good governance in Bangladesh. The specific objectives are:

- To discuss of the Mechanism to Implement of Human Rights in Bangladesh.
- The objectives of this research paper is to provide an overview of existing conditions of Mechanism to Implement of Human Rights in Bangladesh and the approaches by concerning states and its implications.
- To find out the problems in implementing with a recommendation how it will be more effective of Implement of Human Rights in Bangladesh.

1.6 Research Methodology

The nature of the study requires combining analytical and empirical approaches in the methodology. Accordingly qualitative information and data have been required. In order to general database of the study all necessary information has been collected from different secondary sources. Data have also been analyzes and presented through the use of necessary figures and tables.

1.7 Scope and Limitation of the Study

Though there is a good number of secondary data available through books, newspaper and articles but major limitation remains in finding recent quantitative data on this subject. This study is subject to some limitations provided by recommending authority. The monograph will be completed within 10,000 words. Besides, it was also difficult to gather information from the government offices as they were reluctant to provide information for the study.

Chapter-Two

Conceptual Framework

2.1 Definition of Human Rights

The term "human rights" which does not mean any right is used in special sense. Human rights are those of legal and moral rights which can be claimed by any person for the very reason that is a human being. These rights come with birth and applicable to all people throughout the world irrespective of their race, color, sex, language or political or other opinion. These are therefore those rights that are inherent in human person and without which they cannot live as human beings. Human rights mention as—

- By born rights
- Natural rights
- Full freedom and autonomy of individual human being
- Inalienable moral entitlement
- Evolved over time
- Varies from society to society, culture to culture
- Recognized by int. community
- Order of justice
- Equal opportunity in every sphere of life of a human being

2.2 Literature Review

Since the ratification of the Universal Human rights Declaration (Paris, December 10th, 1948)[1] understanding of the Human Rights has developed dramatically and shaped the political reality of many states. And as long as the society understood the role and function of human rights, they begun practice it domestically and internationally. However, the beginning of practice lead to many disputes such as role of human rights, whether states are responsible, the influence of powerful states, role of institutions, legitimacy of the intervention as well as comparability of human rights international agreements with domestic legislation. Each of them will be analyzed in turn.[2]

[1] United Nations. General Assembly. (1949). *Universal declaration of human rights* (Vol. 3381). Department of State, United States of America.

[2] https://www.ipl.org/essay/Literature-Review-On-Human-Rights-FKN7M5H4SCP6

2.3 Concept of Human Rights

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Human rights, therefore, have two inherent characteristics— universal inherence and inalienability. These two characteristics distinguish the concept of human right from other right. Universal inherence means that these rights are universally inherent in all human beings and anyone can claim these rights after his birth. Inalienability as an essential feature of human rights means that these rights cannot be taken away; they cannot be the object of sale or purchase or any kind of transfer. In this sense human rights are different from citizens' rights2 which are protected by the positive law of the state and the state can any time take away or abolish any citizen's right. But human rights are rights that existed before the state came into being and for this they are natural and inalienable rights.[4]

It is noteworthy that if 'inalienability' is considered as an essential element of human rights, there is a danger and confusion. Because a perusal of all human rights will give the idea that this element does not apply to all human rights. For example, right to property which is recognized in Article 17 of both the French Declaration on Rights of Man and Citizen, 1789 and the Universal Declaration of Human Rights,

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3 Hamid, Dr. Kaji Akter, *Human Rights, Self-determination and the Right to Resistence*, 2nd ed. (Dhaka: Bhuiyan Academy, 1994), p.25.

4 *Ibid*, p.19.

1948. But this right is undoubtedly an alienable right. Only one common characteristic, can, therefore, be found for human rights and that is 'universal inherence'. It is rather better to divide all human rights into two categories—fundamental or basic human rights like right to life, food, shelter, basic necessaries of life, speech etc. and other human rights.[5]

It is also important to indicate here that what has been told here so far about human rights is the only theoretical side of human right while the real picture is quite different. Because everywhere human rights are being violated; there are some human rights which can be taken away by the state, e.g, right to nationality, right to property etc. The truth is that the concept of human right is not at all a legal concept; it is purely a matter of international law. If a particular human right is recognized by a positive law of a state and is maintained through enforcement machinery only then it becomes legal and enforceable right. It is therefore; better to describe human rights as universal moral rights.

2.3.1 Classification of Human Rights

Human rights can be classified and organized in many different ways. At the international level, the most common classification of human rights is the division into civil and political rights and economic, social and cultural rights. Civil and political rights are set out in Articles 3 to 21 of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Economic, social and cultural rights are enshrined in Articles 22 to 28 of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

2.3.2 Corruption and Human Rights

Corruption has widespread consequences for human rights and produces human rights violations, both directly and indirectly. When people have to pay bribes to access food, health-care, housing, property education and jobs basic human rights are clearly violated. In many developing countries citizens have to routinely bribe unscrupulous

[5] Vasak, Karel, *The Internaltional Demension on Human Rights*, 1st ed. (Publication: United Nation Education, Paris, France1982), p.43-59.

government workers, such as personnel at hospitals and municipal offices in order to access to such basic rights or other public services paid for in taxes and government fees. A survey conducted in 2005-2006 revealed, for. That more than half of the users of public hospitals in Bangladesh had to bribe for access to : In Pakistan 92 per cent of households with experience of public education had to pay Samples clearly demonstrate how petty corruption affects the enjoyment of the basic human of the people living in those two poor countries to health and education in a very harmful way. Corruption often affects human rights in the same way. In countries where the most basic health, education and security are limited, under pressure or even non-existent, public that should be financing civic services for citizens frequently find their way to the private, corrupt officials. It is, for example, estimated that Moharned Suharto, president of 967-1998, embezzled USS 15 to 35 billion and bankers have estimated that USS 20 in the private Swiss bank accounts of African leaders alone been shown that corruption tends to steer public expenditure areas that will corrupt transactions. Therefore corrupt officials rather want to spend public resources on than education or other basic civic services does not, however, only produce violations of economic, social and cultural rights. It also threatens civil and political human rights and leads to all kinds of violations of i. corrupt governments, for example, often try to cling to power to protect their privileges and corruption opportunities that their governing positions give them. Under such i governments tend to violate all kinds of civil and political rights, such as the right to a right to privacy, freedom of expression and freedom of association and even the right to ” (be right not to be tortured however, not only leading to human rights violations in countries which are governed f governments. There are also serious problems in many democratic countries. Corruption in judiciary can, for example, obviously lead to violations of the human right to a fair real to the rule of law.

Contravention of the human right 10 access on general terms of equality to the public service. -Environment where the government is interfering with the media in an unreasonable way journal tends to apply self-censorship to protect their jobs. This can obviously be a threat to the freedom expression. If human rights are threatened and violated by corruption, respect for human rights can be a pom tool in fighting corruption. Human rights standards, such as those requiring equal access services, the independence and impartiality of the judiciary and fair trial are clearly accountability and anti-corruption efforts.” It can even be argued that the mechanism that is to

prevent and control corruption is first and foremost the realization of a series of civil and poll rights, i.e. an independent and impartial judiciary, freedom of expression and information, few of association and free NGOs and public opinion and free elections. A media which are investigate and report on cases of corruption, not least when influential politicians are unvocal very powerful tool to put pressure on the authorities to act and to encourage the general M demand that the corrupt will be made accountable. An independent judiciary, where the appointment of judges is merit-based and the judges are given adequate salaries and necessary protection Interference or threats by the executive, politicians and other external parties, is also the implementation of anti-corruption regulations and to ensure accountability. Although corruption is not a victimless crime per se, unlike most crimes, the victim is easily identifiable. Usually, those involved are beneficiaries in some way and have inspired serving secrecy. Corruption is therefore, by its nature, secretive and responsible authority:- encounter great difficulties in obtaining the evidence required to prove their cases. The use of aid surveillance is therefore specifically encouraged by some international instruments against such as by UN Convention against Corruption (Article 50 paragraph I), problematic because of. the human right to privacy. It must also be kept in refund that if balance is not found anti-corruption efforts can lead to violations of certain other human in international against corruption have, for example, been criticized for violating the principle of the pre of innocence. The importance of finding the right balance in the fight against corruption realized by Transparency International, which insists that efforts to combat corruption respect fundamental human rights.[6]

2.3.3 How to ensure good governance in Bangladesh.[7]

Good governance is a much-talked-about issue of the day. It has been defined as 'the exercise of economic, political and administrative authority to manage a country's affairs at all levels'. Governance and development are inextricably linked with each other. Good governance is a prerequisite for sustainable development. There are some important components of good governance.

[6] Ann, Kimberly, June ,(1997) Corruption and Global Economy , editor ,Institute for International Economics, Washington. DC.
[7] Ibid

Human rights:

Another important component of good governance is protection of human rights. Custodial deaths, torture, degrading treatment of victims by law enforcing agencies, illegal detention and engaging somebody in any unethical profession or in any profession against his/her will are examples of violation of human rights.

Legitimacy:

Good governance presupposes a legitimate government i.e. a government elected through free and fair election. An autocratic or illegitimate government can notch up spectacular economic development but in the absence of free expression of thought and freedom of speech, good governance will remain an elusive goal. Hence an autocratic or illegitimate government is an anathema to good governance.

Rule of law:

The rule of law implies that all citizens irrespective of their race, religion, sex and political affiliation are equal in the eye of law and are entitled to equal legal protection. Protection of human Accountability is the hallmark of good governance and lack of it breeds corruption and encourages highhandedness and excesses on the part of the executive organ of the state.

Transparency:

Transparency means that the government must share information with the people and ensure its wide dissemination to them. People should have access to all the documents of the government except those which have bearing on national security. Lack of it results in misuse of power and breeds corruption.[8]

Efficiency:

Efficiency, an important component of good governance, depends on proper recruitment, training, posting and promotion on the basis of merit and not on any extraneous factor. Speed of work is also a hallmark of efficiency.[9]

Bangladesh context:

[8] Ibid
[9] Ibid

Though an electoral democracy, Bangladesh lacks in many of the components of good governance. A democratic culture is yet to take its root in Bangladesh. Politics has been confrontational instead of being consensual. State machinery is characterized by pettiness, ill will and use of resources in personal and party interests. Transparency is poor and accountability is almost non-existent. The administration is dubbed corrupt and inefficient. The civil society is fragmented. Establishing good governance demands a policy package which should incorporate the following:

Political culture:

Political culture has important bearing on good governance. Success of a democracy is not a matter of having the most perfect institutional structure that we can think of. It depends inescapably on our actual behavioral patterns and the working of political and social interactions. The politicians must be honest and committed. If they can rise above corruption and set self-sacrificing examples, it will help establish good governance. The process of decision-making has to be consensual, as in the contemporary political philosophy, democracy is seen as a government by discussion and as the exercise of public reason through deliberations by citizens on public political questions.

Judicial activism:

For the sake of good governance, the higher judiciary should come forward on its own volition to enforce in public interest the rights of a person or authority. Office of Ombudsman: In order to ensure good governance, an ombudsman should immediately be put in place to investigate the wrongful action taken by any person/authority.

Other tools:

The system of reporting, auditing, monitoring, supervision, inspection and parliamentary committees' hearing should be strengthened to establish accountably and thereby good governance in Bangladesh. Since governance has its impact on the society as a whole all concerned should assiduously contribute their mites towards implementing the package referred to above.

2.4 Historical Background of Human Rights

The belief that everyone, by virtue of her or his humanity, is entitled to certain human Rights is fairly new. Its roots, however, lie in earlier tradition and documents of many cultures; it took the catalyst of World War II to propel human Rights onto the global stage and into the global conscience. Throughout much of history, people acquired Rights and responsibilities through their membership in a group – a family, indigenous nation, religion, class, community, or state.[10] The Hindu Vedas, the Babylonian Code of Hammurabi, the Bible, the Quran (Koran), and the Analects of Confucius are five of the oldest written sources which address questions of people's duties, Rights, and responsibilities. Documents asserting individual Rights, such the Magna Carta (1215), the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789), and the US Constitution and Bill of Rights (1791) are the written precursors to many of today's human Rights documents. Yet many of these documents, when originally translated into policy, excluded women, people of color, and members of certain social, religious, economic, and political groups. Nevertheless, oppressed people throughout the world have drawn on the principles these documents express to support revolutions that assert the Rights to self-determination. Contemporary international human Rights law and the establishment of the United Nations (UN) have important historical antecedents. Efforts in the 19th century to prohibit the slave trade and to limit the horrors of war are prime examples. In 1919, countries established the International Labor Organization (ILO) to oversee treaties protecting workers with respect to their Rights, including their health and safety. Concern over the protection of certain minority groups was raised by the League of Nations at the end of the First World War. However, this organization for international peace and cooperation, created by the victorious European allies, never achieved its goals. The League floundered because the United States refused to join and because the League failed to prevent Japan's invasion of China and Manchuria (1931) and Italy's attack on Ethiopia (1935). It finally died with the onset of the Second World War (1939).The UN, formed in 1945 to replace the defunct League of Nations, was the first to put up a formal global setup to define human rights. A UN committee, headed by Eleanor Roosevelt, drafted the document that defined and universally granted the basic rights to all human beings, terming them the equal and

[10] [en.wikipedia.org/wiki/cario-history/humanrights,

inalienable rights of every human being. The Declaration, known as the Universal Declaration of Human Rights (UDHR), was adopted by the UN General Assembly on December 10 1948.

2.5 Constitution and legal provision of Human Rights in Bangladesh

The constitution of Bangladesh provides basic and fundamental rights for all human beings. It also ensure the full freedoms and particular space for all human being.

Constitutional guarantees of fundamental Rights as well as Human Rights in Bangladesh:

Article-27 of the Constitution ensures Equality before law.[11]

Article-28 of the Constitution discusses about Discrimination on grounds of religion,

Article-29 of the Constitution states about Equality of opportunity in public employment.[12]

Article- 31 states about Rights to protection of Law

Article-32. Protection of Rights to life and personal liberty. No person shall be deprived of life or personal liberty save in accordance with law.[13]

Article-34. Prohibition of forced labor.[14]

Article-35. Protection in respect of trial and punishment.[15]

Article-36. Freedom of movement.[16]

Subject to any reasonable restrictions imposed by law in the public interest, every citizen shall have the Rights to move freely throughout Bangladesh, to reside and settle in any place therein and to leave and re-enter Bangladesh.

37. Freedom of assembly.[17]

Every citizen shall have the Rights to assemble and to participate in public meetings and processions peacefully and without arms, subject to any reasonable restrictions imposed by law in the interests of public order health.

38. Freedom of association.[18]

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11 *The constitution of the people's Repuplic in Bangladesh* Art 27
12 *The constitution people's re public in Bangladesh* Art 29
13 *The constitution people's republic in Bangladesh* Art 32
14 *The constitution people's re public in Bangladesh* Art 34
15 *The constitution peoples re public in Bangladesh* Art 35
16 *The constitution people's re public in Bangladesh Art* 36
17 *The constitution people's re public in Bangladesh Art* 37
18 *The constitution people's re public in Bangladesh Art* 38

Every citizen shall have the Rights to form associations or unions, subject to any reasonable restrictions imposed by law in the interests of morality or public order.

39. Freedom of thought and conscience, and of speech[19].

40. Freedom of profession or occupation.

41. Freedom of religion[20]

(1) Subject to law, public order and morality- every citizen has the Rights to profess, practice or propagate any religion;

42. Rights to property[21]

Subject to any restrictions imposed by law, every citizen shall have the Rights to acquire, hold, transfer or otherwise dispose of property .

43 Protection of home and correspondence

44. Freedom of Speech and Press[22]

The constitution provides for freedom of speech and press; however, the government used the EPR to curtail these rights. In September the government approved the Right to Information Ordinance allowing journalists and the public greater access to information.

Newspaper ownership and content were sometimes subject to direct restriction by the military's Inter-Service Public Relations office and DGFI. Journalists reported being cautioned by DGFI against criticizing the government or the military.

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19 *The constitution people" re public in Bangladesh Art* 39

20 *The constitution peoples Republic in Bangladesh* 41

21 *The constitution people's Republic in Bangladesh* 42

22 *The constitution peoples Republic in Bangladesh* Art 44

Chapter 3

Mechanism to Implement of Human Rights in Bangladesh

3.1 Bangladesh Mechanism:

Fundamental rights in the Constitution of Bangladesh, and the national human rights instruments acceded to by Bangladesh, provide the normative framework for protection of human rights and access to justice for all people. In practice, violations of civil and political liberties, arbitrary detention, excessive use of force and extra-judicial executions, risks to personal safety and security, and violence against women are widespread.

The people of Bangladesh have a deep-rooted awareness of human rights and fundamental freedom borne of the experience accompanying the nation's birth. This was again demonstrated in the struggle of the people of Bangladesh and their heroic sacrifice for the restoration of democracy by uprooting a+ deeply entrenched autocratic regime in December 1990.

The challenge before Bangladesh is to keep pace with rising expectations of people along a broad and complex range of fronts that mark the indivisibility of human rights.

Human rights are inalienable. They should not be taken away, except in specific situations and according to due process. For example, the right to liberty may be restricted if a person is found guilty of a crime by a court of law.

3.2 Interdependent and indivisible

All human rights are indivisible, whether they are civil and political rights, such as the right to life, equality before the law and freedom of expression; economic, social and cultural rights, such as the rights to work, social security and education, or collective rights, such as the rights to development and self-determination, are indivisible, interrelated and interdependent. The improvement of one right facilitates advancement of the others. Likewise, the deprivation of one right adversely affects the others.

3.3 Equal and non-discriminatory

Non-discrimination is a cross-cutting principle in international human rights law. The principle is present in all the major human rights treaties and provides the central theme of some of international human rights conventions such as the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women.

The principle applies to everyone in relation to all human rights and freedoms and it prohibits discrimination on the basis of a list of non-exhaustive categories such as sex, race, colour and so on. The principle of non-discrimination is complemented by the principle of equality, as stated in Article 1 of the Universal Declaration of Human Rights: "All human beings are born free and equal in dignity and rights."

3.4 Both Rights and Obligations

Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights. At the individual level, while we are entitled our human rights, we should also respect the human rights of others.

3.5 National Implementation Mechanisms of Human Rights Treaties

In general, national compliance mechanisms of international human rights treaties rely on the following measures: ratification or accession, legislative and policy measures, administrative measures, reporting to the treaty bodies, and judicial interpretation. Ratification of or accession to any international treaty or convention may automatically result in the provisions of that instrument being incorporated directly into domestic legislation, and being immediately and fully applicable. This is referred to as automatic incorporation. Depending on the legal tradition or legal system of a country, post-ratification implementation of a treaty may require amendment of the constitution or national laws to comply with the standards of the treaties; amendment of policies to comply with the standards of the treaties; transformation of the convention into national law by passing new legislation

(Perrault, Hall and Lundy, 2008); and administrative action or measures to achieve the goals of the Convention. Ratification of a treaty not only creates state obligation to formulate appropriate legislation and undertake other measures at the domestic level but it also creates a special relationship between a government and the UN treaty system. Under UN reporting requirements, states are encouraged to monitor, track and analyse human rights abuses. Wider ratification of human rights treaties plays an important role in the process of building national human rights cultures and increases the salience and legitimacy of the human rights norms in the international community (Goodman and Jinks, 2003: 182). In this sense, human rights treaties serve both a (global) expressive function and a (domestic) constitutive function (Goodman and Jinks, 2003: 182).[23] When a government ratifies an international human rights treaty or protocol, that government assumes three types of obligations. These are known as obligations to respect, protect and fulfil. The obligation to respect rights requires states to refrain from any action that would interfere with citizens' enjoyment of their rights, including actions people take in efforts to realise their rights. The obligation to protect rights requires states to take action to prevent violations of human rights by others. This involves encouraging individuals and organisations to respect the rights of others, as well as imposing sanctions for violations that are committed by private individuals or organisations. The obligation to fulfil rights requires states to take action to achieve the full realisation of rights. These actions can include enacting laws, implementing budgetary and economic measures, or enhancing the functioning of judicial bodies and administrative agencies. Many states ratify human rights treaties to signal their commitment to human rights to other important actors. Because of the legal character of international human rights treaties, ratification is virtually costless in that unenforced treaty rules do not require any actual changes in state practice (Hathaway, 2001: 1935).[24] Broad ratification of human rights treaties, however, plays an important role in the process of building national human rights cultures. Universal ratification furthers the objectives of acceptance of human rights norms on the global plane (Goodman and Jinks, 2003: 182).[25] The human rights obligation of states at the national level is sometimes categorised as vertical and

[23] Goodman, R., & Jinks, D. (2003). Measuring the effects of human rights treaties. *European Journal of International Law, 14*(1), 171-183.
[24] Hathaway, O. A. (2001). Do human rights treaties make a difference. *Yale lj*, *111*, 1935.
[25] Goodman, R., & Jinks, D. (2003). Measuring the effects of human rights treaties. *European Journal of International Law, 14*(1), 171-183.

horizontal one. While 'vertical obligation' refers to the fact that human rights treaties impose direct obligations on states to protect the rights of their citizens, 'horizontal obligation' refers to private duties of individuals to respect the human rights of others (Knox, 2008: 2). In other words, it means that while states must not violate human rights of individuals, they should also ensure that the human rights of a person are not violated by other private persons or private entities. Some human rights treaties contain horizontal obligations in the sense that states have general duties to restrict private actions that interfere with the enjoyment of human rights. Some human rights law may also directly place duties on private actors but continue to leave their enforcement to domestic laws (Knox, 2008: 2).[26] For example, under art 2(1) of the ICCPR, the primary obligation for ensuring the protection of rights, is imposed upon the state, and the violation of human rights by any organ of the state imposes responsibility upon the state for that violation. This can be described as a 'vertical' relationship between the state and the citizen. The wording of art 2(1) also implies that the state has a legal responsibility to ensure that the rights of its citizens are not violated by other private citizens. This may be called the enforcement of a 'horizontal' relationship.[27]

3.6 Adoption of Legislative, and Policy Measures by Bangladesh

Many international human rights instruments require state parties to undertake legislative measures or change existing laws to comply with human rights norms.2 Bangladesh has ratified eight of the nine core human rights treaties. Bangladesh is yet to ratify the Convention for the Protection of All Persons from Enforced Disappearance, 2006. To quote Huda and Hasan, 'There is no lack of initiative to ratify or sign Internatonal Conventions; in fact the eagerness to do so is obvious. Little thought however is given to harmonising legislation which may be required for greater compliance with the spirit of the international regime' (Huda and Hasan, 2000: 51).[28] Lack of implementing legislation has two negative consequences. First, it leads to various inconsistencies or gaps between the international obligations assumed

[26] Dowsett, M., Allred, C., Knox, J., Quinn, E., Salter, J., Wale, C., ... & Buzdar, A. (2008). Relationship between quantitative estrogen and progesterone receptor expression and human epidermal growth factor receptor 2 (HER-2) status with recurrence in the Arimidex, Tamoxifen, Alone or in Combination trial. *Journal of clinical oncology*, *26*(7), 1059-1065.

[27] file:///C:/Users/User/Downloads/SSRN-id2938851.pdf

[28] Saffoon, N., Uddin, R., Huda, N. H., & Sutradhar, K. B. (2011). Enhancement of oral bioavailability and solid dispersion: a review. *Journal of Applied Pharmaceutical Science*, (Issue), 13-20.

under the treaties ratified by Bangladesh and its conduct in its domestic sphere. Second, it leads to non-enforcement or deprivation of enjoyment of human rights by individuals or international standards, which a state has agreed to implement through ratification. Implementing legislation could, for example, make the judiciary more comfortable in applying treaty norms in the domestic sphere (Alam, 2007: 129).[29]

3.7 Convention on the Elimination of All Forms of Racial Discrimination, 1965

This Convention came into force 4 January 1969. It aims at eliminating racial discrimination in all its forms and manifestations and to build an international community free from all forms of racial segregation and racial discrimination. Article 2 requires State Parties to condemn racial discrimination and undertake to pursue all appropriate means to eliminate racial discrimination in all its forms. State Parties shall take special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. Bangladesh acceded to this Convention on 11 June 1979 and, in 2010, adopted the Small Ethnics Cultural Institutions Act, to preserve the cultures of 27 ethnic minorities. The National Education Policy of the same year also includes provision for primary education in own mother tongue. The 15th amendment to the Constitution of Bangladesh refers to tribes, minority races, ethnic sects and communities, in order to preserve diversity and protect the rights of minority groups. It also restored art 12, which provides for a secular state and protects freedom of religion. There is not yet, however, a legal framework for excluded groups such as Dalits and transgenders, who remain some of the poorest people in Bangladesh.

3.8 International Covenant on Civil and Political Rights, 1966 (ICCPR)

Bangladesh acceded to the ICCPR in 2000. Under art 2(2) states are required to take the necessary legislative or other measures to give effect in their domestic law to the rights recognised in the ICCPR. According to art 2(3), states are also required to provide effective remedies for those whose rights which have been violated. Most of the civil and political rights under the ICCPR have been guaranteed in the Constitution of Bangladesh as fundamental rights.

[29] Kumar, S., Alam, M. A., & Murthy, J. Y. (2007). Computational model for transport in nanotube-based composites with applications to flexible electronics.

Chapter 4
Human rights and the Millennium Development Goals rules and rights

4.1 Human rights and the Millennium Development Goals

In September 2000, world leaders made commitments in the Millennium Declaration UN resolution 55/2 on topics that included peace, security, human rights, the environment and development targets which were later configured into the eight Millennium Development Goals (MDGs). These goals are sets of development targets that center on halving poverty and improving the welfare of the world's poorest by 2015. The IMF contributes to the goals through advice, technical assistance, lending to countries and mobilizing donor support.

4.1.1 Poverty

The present global institutional order is foreseeably associated with avoidable severe poverty and its impositions may constitute an ongoing human rights violation.[34]There are many measures of poverty and it is now regarded that poverty is more than the measure of a low income. Amartya Sen argues that individual physical characteristics, environmental and social conditions as well as behavioural expectations all play a role. The UN Committee on Economic, Social and Cultural Rightsdefines poverty as "human conditions characterised by chronic deprivation of resources capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living"

4.1.2 Education

Varun Gauri argues that economic and social rights, such as the right to health care or education, may be understood not as legal instruments for individuals, but as duties for governments and international agencies such that everyone bears some responsibility for their fulfillment. Economists accept that the realization of high standards of health and education are conducive to economic growth. The human rights approach regards transparency and empowerment as ends in themselves, while an economic approach sees them as instrumental to a welfare outcome.

4.1.3 Gender equality

The third MDG is to promote gender equality and empower women. Eliminating gender inequality is supported by international human rights instruments, such as

the Convention on the Elimination of All Forms of Discrimination against Women. The goal sets women's empowerment as the objective but the related target is narrowly concerned with education.[46] Eliminating gender disparity in primary and secondary education by 2015 is narrowly conceived but comparable to Women's Right to equality. Of note the share of women employed outside of agriculture rose to 40% in 2013 but only by 20% in Southern Asia, Western Asia and Northern Africa while the global share of women in parliament continues to rise and reached 20% in 2012.

4.1.4 Combating disease

This sixth MDG is to combat HIV/AIDS, malaria and other diseases. The goal has three targets 1) to halt and reverse HIV/AIDS, 2) to achieve universal treatment for HIV/AIDs 3) to halt and reverse Malaria and other Diseases[56] unquestionably reflecting the *Right to health*. To date 2.3 million people are newly infected by HIV each year, with 1.6 million in sub-Saharan Africa. Tuberculosis (TB) mortality rate decreased 41% between 1991 and 2011, yet TB killed 1.4 million people in 2011, including 430,000 among people who were HIV-positive. Multidrug-resistant TB is a major global challenge and the rate of people accessing treatment is slow.

4.2 The Declaration on the Right to Development

The Declaration on the Right to Development was proclaimed by the UNGA under resolution 41/128 in 1986. with only the United States voting against the resolution and eight absentions. The United Nations recognizes no hierarchy of rights, and all human rights are equal and interdependent, the right to development then is not an umbrella right that encompasses or trumps other rights nor is it a right with the status of a mere political aspiration.

4.2.1 Sources

The right was first recognized in 1981 under Article 22 of the African Charter on Human and Peoples' Rights and subsequently in the Arab Charter on Human Rights. It is now recognized in numerous international instruments, with the Rio Declaration asserting under principle 1 "Human beings are at the centre of concerns for sustainable development, they are entitled to a healthy and productive life in harmony with nature". Other instruments include the Vienna Declaration and Programme of Action the United Nations Millennium Declaration, the 2002 Monterrey

Consensus, the 2005 World Summit and the 2007 Declaration on the Rights of Indigenous Peoples.

4.2.2 Duty bearers

Article 3 provides that "States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development" and this encompasses three main levels 1) States acting collectively in global and regional partnerships; 2) States acting individually as they adopt and implement policies that affect persons not strictly within their jurisdiction and 3) States acting individually as they formulate national development policies and programmes affecting persons within their jurisdiction.

National Human Rights Commission, Bangladesh (NHRCB)

National Human Rights Commission, Bangladesh (NHRCB) has the mandate under Section 12 of the National Huma Rights Commission Act (NHRC) 2009 to handle complaints relating to allegation of human rights violation which of course include business activity. There is no doubt that there is a link between business activity and human rights in the global standard. With this, the Commission can inquire into a complaint concerning alleged business-related human rights abuses. The Commission while inquiring into the complaints relating to businesses may call for report or information from the Government or any authority of the Government or any other organization. Further, Section 14 of the NHRC Act 2009 also empowers the Commission to take steps to resolve it through mediation and arbitration.

4.2.3 UN mechanisms

The Intergovermental Working Group on the Right to Development was established in 1998 and meets once a year reporting to the Human Rights Council (HRC) and the General Assembly. Its mandate is to globally (a) monitor and review progress made in the promotion and implementation of the right to development as elaborated in the Declaration, providing recommendations and analyzing obstacles to its full enjoyment; (b) to review reports and other information submitted by States, United Nations agencies, relevant international and non-governmental organizations, on the relationship between their activities and the right to development.

4.2.4 Religion, development and human rights

Is religion an obstacle to women's rights? Do faith-based organizations present an 'added value' to development cooperation? Can missionaries provide neutral aid? Can

religious leaders contribute to conflict resolution? Do religious traditions conflict with a human rights-based approach?

4.2.5 Religious freedom as a fundamental human right

"The right of freedom of conscience and belief … religious freedom constitutes the very foundation for the other fundamental freedoms of man!" - Cardinal Franz Koenig (Austria) "The right of freedom of conscience and belief … religious freedom constitutes the very foundation for the other fundamental freedoms of man!" - Cardinal Franz Koenig (Austria) For a religious person, can there be any other right more important than the freedom to worship your creator and follow his will in the way your conscience commands you to do? Mr. Chairmen, your Excellences, the importance of religious freedom has been dismally neglected by political leaders! On the contrary, great human rights defenders have always regarded the freedom of faith and conscience as the "mother of human rights." Therefore, the significance of religious freedom for creating social harmony and world peace cannot be emphasized enough.

4.2.6 Religious freedom in Europe under threat

"Each civilization should be judged by the way it treats her minorities!" Mahatma Gandhi. The escalation of religious intolerance and discrimination throughout the new Europe should be a matter of great concern to our political leaders, the European Union and the United Nations. Anti-semitism is on the rise again. Islamophobia is spreading throughout Western - and Eastern Europe. Sectophobia – the irrational fear of so called "sects" or religious minority groups has been rising during the last 40 years in Western Europe and since the fall of the iron curtain is now also manifesting in Eastern Europe. This is not just a mere assumption. Even governments and powerful state-sponsored organizations have been supporting the agents of intolerance and discrimination of minor religions and new religious movements. It is exactly this kind of religious discrimination that Article 18 was designed to prevent. This is made clear by the UN Human Rights Committee which, in its Comment 22, states:

4.3 International Covenant on Economic, Social and Cultural Rights, 1966 (ICESR)

Bangladesh acceded to the ICESCR in October 1998. It included an obligation on the state to realise and implement economic, social and cultural rights at the national level, and these obligations mutually reinforce and supplement each other (Steiner and Alston, 2008: 23).[30] The key provision is art 2, which deals with obligation of states at national level. It states that state party undertakes to take steps to the maximum of its available resources with a view to progressively achieving the full realisation of the rights recognised in the covenant by all appropriate means. The phrase 'all appropriate means' also includes, but is not limited to, administrative, financial, educational and social measures. The Covenant contains four layers of state obligations: the obligation to respect, which requires the state to refrain from interfering with the enjoyment of rights: the obligation to protect, which requires the prevention of violations of such rights; the obligation to promote, which requires raising public awareness of the rights; and the obligation to fulfil, which requires state to take appropriate measures towards the full realisation of the right (Dias, 1999). Bangladesh remains far behind in realisation of the rights and fulfilment of obligations under ICESCR. The government is yet to undertake an adequate legal framework and necessary administrative measures for the full realisation of ESC rights. So far, Bangladesh has adopted a Consumer Protection Act, 2009 to protect people from unsafe and adulterated food stuffs. This Act helps ensure the right to food is respected.

4.4 Convention on Elimination of Discrimination against Women, 1979 (CEDAW)

CEDAW addresses the pervasive and systematic nature of discrimination against women, and identifies the need to confront the social causes of women's inequality by addressing 'all forms' of discrimination that women suffer. Thus, any law which makes a distinction that has the effect or purpose of impairing women's rights in any way constitutes discrimination under this definition, violates the Convention, and must be remedied by the state party. Article 2(e) requires state parties to take all appropriate measures to eliminate discrimination against women by any person,

[30] Steiner, H. J., Alston, P., & Goodman, R. (2008). *International human rights in context: law, politics, morals: text and materials*. Oxford University Press, USA.

organisation or enterprise. Article 2(f) requires state parties to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs, and practices, which constitutes discrimination against women. Under art 5(a), state parties agree to reform personal laws and to confront practices, for instance of religious institutions, that perpetuate injustice for women. Bangladesh ratified CEDAW in 1984. State parties must submit periodic reports on women's status in their respective countries. CEDAW's Optional Protocol establishes procedures for individual complaints on alleged violations of the Convention by state parties, as well as an inquiry procedure that allows the Committee to conduct inquiries into serious and systematic abuses of women's human rights in countries. Bangladesh has not yet ratified the Optional Protocol.

4.5 Convention against Torture, 1984

Bangladesh ratified this Convention in 1989. Article 2 of the Convention against Torture contains the state obligation to implement it by taking effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction. An Optional Protocol to the Convention against Torture adopted in 2002 provides that each state shall set up, designate or maintain a national preventive mechanism for the prevention of torture, and guarantee the functional independence of the national mechanism and monitor situations in detention centre and prisons. Bangladesh is yet to ratify the Optional Protocol. Article 35 of the Constitution of Bangladesh also prohibits torture, as it provides that nobody will be subject to cruel, inhuman or degrading treatment. Custodial torture has emerged as a disturbing trend of the criminal justice system of Bangladesh. The term 'custodial torture' includes all kinds of physical and mental torture inflicted upon a person in police custody.

4.6 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990

The Convention came into force in 2003 and Bangladesh ratified it in 2011. This Convention aims to bring about the international protection of the rights of migrant workers and members of their families. It is applicable to all migrant workers and members of their families and applies during the entire migration process of migrant workers and members of their families, including preparation for migration,

departure, transit and the entire period of stay and remunerated activity in the state of employment, as well as return to the state of origin or of habitual residence. Since Bangladesh is mainly a country of origin, and is, in fact, a major migrant worker sending country, implementation of the Convention can be an important vehicle to protect its citizens living abroad. It is estimated that there are 7 million Bangladeshis working abroad as migrant workers. Bangladeshi migrant workers have suffered from unscrupulous recruitment practices, leading to high costs, fraudulent practices and pauperisation (Siddiqui, 2007).[31]

4.7 Convention on the Rights of Persons with Disabilities, 2006

This Convention was adopted in view of the fact that existing standards and mechanisms failed to provide adequate protection for persons with disabilities. It is the first global and binding treaty to comprehensively address the rights of persons with disabilities and it outlines the civil, cultural, political, social and economic rights of persons with disabilities. In essence, it elaborates in considerable detail the rights of persons with disabilities under international law and sets out a code of implementation for governments. The Convention spans a wide range of real-life issues including accessibility, personal mobility, health, education, employment, rehabilitation and participation in political life, equality, and non-discrimination. Bangladesh ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) on 30 November 2007 and its Optional Protocol on 12 May 2008. To implement the obligations under the Convention, Bangladesh has adopted the Rights and Protection of Persons with Disabilities Act, 2013. The main objective of the Act is to define and categorise different kinds of persons with disabilities. It also confers rights on persons with disabilities, establishes institutional mechanisms to protect rights and ensure welfare measures in line with standards of the Convention. Section 16 of the Act enumerates the right of persons with disabilities to: full development and life; equal recognition before law and access to justice in all spheres; inheritance; freedom of expression; opinion and information; form a family; equal access; full and effective participation in social, economic and state affairs; full and effective participation in all stages of education, employment in government and non-

[31] Coombes, J. L., Siddiqui, K. R., Arancibia-Cárcamo, C. V., Hall, J., Sun, C. M., Belkaid, Y., & Powrie, F. (2007). A functionally specialized population of mucosal CD103+ DCs induces Foxp3+ regulatory T cells via a TGF-β–and retinoic acid–dependent mechanism. *The Journal of experimental medicine, 204*(8), 1757-1764.

government sector; rehabilitation or compensation in the case of persons who have become disabled in course of employment; protection from torture; a safe environment; health services; reasonable accommodation in education and employment; integration; safe housing and rehabilitation; participation in cultural and sports activities; privacy; form associations; be included in voter list; and so on. In 2013, the NeuroDevelopment Disability Protection Trust Act was adopted by Bangladesh, providing for the care, security and rehabilitation of persons with autism.

3.14 Submission of Universal Periodic Review to Human Rights Council

According the Office of the High Commissioner for Human Rights, the Universal Periodic Review (UPR) is a unique process that involves a review of the human rights records of all UN Member States. The UPR was created through the UN General Assembly on 15 March 2006 by resolution 60/252, which established the Human Rights Council itself. The UPR is a state-driven process, under the auspices of the Human Rights Council and provides the opportunity for each state to declare what actions they have taken to improve the human rights situations and fulfil their human rights obligations. The ultimate aim of this mechanism is to improve the human rights situation in all countries and address human rights violations wherever they occur. Bangladesh submitted its UPR in 2009 and 2013. In these two documents, Bangladesh reaffirmed its stand on 'zero tolerance' against human rights violations by law enforcement agencies and against their impunity. Yet extrajudicial killings by the country's security forces continue with impunity. Recently, increased disappearances, including of opposition politicians, and attempts to repress civil society and leaders of labour movements have emerged as serious concerns.

4.8 Role of the National Human Rights Commission of Bangladesh

The National Human Rights Commission of Bangladesh (NHRC), established under the National Human Rights Commission Act, 2009 is a statutory body to protect and promote human rights in Bangladesh. According to National Human Rights Commission Act, 2009 of Bangladesh, one of the key functions of the NHRC is '[t]o research or study treaties and other international instruments on human rights and to make recommendations to the government for their effective implementation.' In recent years, the National Human Rights Commission of Bangladesh has made some important interventions for protection of civil and political rights through fact finding,

visits to prisons, hospitals and juvenile development centres, asking appropriate government agencies to take measures, investigation of human rights violation, recommendations, legal aid and human rights advocacy, and research and training on human rights norms and practices. It also summons explanations from the Law Enforcement Agencies and other public authorities, visits jails, prisons or correctional centres, and files writ petitions with the HCD on behalf of aggrieved persons in cases of gross violation of human rights. It likewise organises training programmes for government officials, police, human rights defenders, NGO representatives, journalists, judges, lawyers and local government representatives. The NHRC also holds consultations with NGOs, experts and civil society organisations for initiating reforms of laws inconsistent with international human rights norms. The NHRC of Bangladesh has received many complaints of torture, unlawful detention, domestic violence inaction and enforced disappearance by government officials. In most cases, these complaints were related to law enforcement agencies including the Rapid Action Battalion (RAB). The NHRC has asked relevant government agencies to investigate such incidents. In 2014, the NHRC received a total of 635 complaints. Of these, the Commission resolved or disposed of 272 cases, and 363 cases remain pending.[32]

4.9 Use of Human Rights Law as a guide for interpreting domestic law

Dr Shipra Chaudhury & another v Government of Bangladesh and ors,[33] is an important case. In it, the High Court Division applied human rights law in interpreting domestic law. In this case, Humayra Abedin, alias Dorothy, was made captive by her parents for marrying a person against their wishes. The parents forced her to divorce her husband. She then went to the UK for further studies in medicine. When she travelled to Bangladesh to visit her parents, she was subjected by her parents to intense emotional and psychological pressure to marry a person of their choice. As she refused to marry, she was held captive against her will by her parents. Her movement was restricted and she was given in marriage against her will. In this circumstance, Dr Shipra Chaudhry, cousin of the detenu (Humayra Abedin) filed a writ petition under art 102 of the Constitution of Bangladesh for bringing the detenu from the unlawful custody by her parents to the court.

[32] National Human Rights Commission of Bangladesh, 2014.
[33] Writ Petition No 7977 of 2008, 29 BLD (HCD) 2009

Chapter Five
Discussion and Criticism

5.1 Suspension of Fundamental Rights during Emergency

There is some special provision in the Bangladesh constitution that is emergency under Article 141 of the Bangladesh constitution. President can declare for emergency on the grounds of external aggression or internal disturbance.

5.2 Need for Emergency Provisions

Providing for emergency provisions in the constitution is not an undemocratic something. Because the security of the state as a whole is of greater importance than the liberty of some individuals. The state itself is destroyed or in great peril the liberties of the individual citizens stands annihilated.

The idea of suspension of some fundamental rights in time of emergency is common to all legal systems. Somewhere the constitution itself and somewhere a special law makes provisions in legal terms for situations of crisis when states of emergency may be invoked.

The necessity for suspension of certain rights in times of emergency is internationally recognized. Almost all regional and international instruments of human rights make provisions for suspension of rights in cases of emergency. Article 4(1) of the International Covenant on Civil and Political Rights, 1966, article 15 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950 and article 27 of the American Convention on Human Rights, 1969 make, more or less, the same provision to the effect that in time of war, public danger, or other emergency that threatens the independence or security of a state party, it may take measures derogating from its obligation under the convention.

5.3 Provisions in the Constitution of Bangladesh

Emergency provisions are dealt with part 9A of the Constitution. The part contains three articles 141A, 141B and 141C.Article l41A says. “If the president is satisfied that a grave emergency exists in which the security or economic life of Bangladesh, or any part thereof is threatened by war or external aggression or internal disturbance, he may issue a proclamation of emergency”.

Thus the president can declare emergency on three grounds —war, external aggression or internal disturbance. Two types of emergency, therefore, can be declared under the constitution of Bangladesh – emergency of war and emergency of subversion.

5.4 Who & under what circumstances declare Emergency

Article 141A says that the president can declare emergency whenever he thinks that a grave emergency exists in which the security or economic life of Bangladesh or any art thereof is threatened by war, external aggression or internal disturbance.

Article 141A (3) says that a proclamation of emergency may be declared before the actual occurrence of war or any such aggression or disturbance if the President is satisfied that there is imminent danger thereof.

Again, the proviso of article 141A (l) says that the proclamation of emergency shall require for its validity the prior counter signature, of the prime minister. Thus virtually the declaration of emergency depends on the wish of the prime minister. Whenever the prime minister advises the president to declare emergency the president is bound to do see. The declaration of emergency, therefore, depends on the subjective satisfaction of the executive and the court cannot question the justifiability of such satisfaction.

5.5 The Consequences of a Declaration of Emergency

1. A proclamation of emergency may be revoked by a subsequent proclamation.
2. A proclamation of emergency shall be laid before parliament and shall cease to operate at the expiration of 120 days unless before the expiration of that period it has been approved by a resolution of parliament.
3. If emergency is declared at a time when parliament stands dissolved or the dissolution of parliament takes place during the period of, the proclamation shall cease to operate at the expiration of 30 days from the date on which parliament first meets after its reinstitution, unless before the expiration of the said period of 30 days a resolution approving the proclamation of emergency has been passed by parliament.
4. As soon as emergency is declared fundamental rights mentioned in articles 36, 37, 38, 39, 40 and 42 halls automatically remain suspended an eye will remain suspended so long emergency will be in operation. As a result, the executive may take any measure against these rights and parliament may make any law inconsistent with these

rights. As soon as emergency is withdrawn these rights will get their full constitutional status.

5.6 Economic, Social and Cultural Rights and the Role of Judiciary

While it is generally taken for granted that civil and political rights are enforceable as they are negative in nature, it is traditionally claimed that the ESC rights are merely social welfare rights and impose programmatic obligations on states that fall outside the scope of judicial scrutiny. The argument against non-justiciability of the ESC rights rests upon the premise that these rights are distinct from civil and political rights in several ways, for example: the ESC rights impose positive or affirmative duties upon government rather than merely negative duties; such rights are substantive entitlements and their realisation is resource-dependent and resource-constrained; these rights intrinsically involve questions of distribution of wealth and decisions requiring technical expertise; and courts lack the competence necessary to decide them in a principled manner (Klare, 2005). The enforcement of the ESC rights often involves policy making, which runs counter to representative political processes. Thus, the central issue in the debate is whether unelected judiciaries should enforce the ESC rights, which might be politically contested terrain. It is argued that these policy questions should be determined in majoritarian processes by representatives chosen through universal suffrage rather by unelected judiciary.28 Entrusting a court with jurisdiction to enforce ESC rights will drag it into unnecessary controversy. This traditional notion has become less influential, however, as many states have made these rights justiciable by ratification of ICESCR and adopting specific legislation. It is a well-accepted principle of international law that ratification of international conventions, including human rights treaties, imposes legal obligations, which states carry out through either appropriate constitutional process or direct application of international treaties into national legal system. Even where the state has not ratified the Covenant or has ratified it but rights have not been incorporated in the legislation, rights may be invoked in the court, as the UDHR and two covenants have almost assumed the status of customary international law. According to General Comment 9 of the UN Committee on Economic, Social and Cultural Rights.

Chapter Six
Recommendation & Conclusion

6.1 Recommendation

1. Enabling the functioning of independent and impartial human rights monitoring organizations.
2. Ensuring equal application of laws on holding meetings and assemblies for all people without discrimination.
3. Creating effective mechanism for the maintenance of quality control of food products and pharmaceutical.
4. Establish a uniform regulatory body for the educational system.
5. Taking up specific plans and programs to secure women's right pursuant to the national women's development policy 2008.
6. Economic policy needs to be reviewed. They must be reformed to meet the needs of the poor masses. The agricultural and industrial sectors need to be revolutionized to attract investment and boost the economy.
7. An immediate and urgent need is to reduce additional expenditure by reducing administrative structures. It will go a long way in reducing our country's debt burden.
8. All bodies responsible for maintaining approved accountability. Legislation has been enacted to improve accountability. It has to start from the top. Everyone, no matter how powerful they are, must be held accountable.

6.2 Conclusion

National compliance process and mechanisms for implementation of human rights treaty obligations requires coordinated action by all three organs of the state. Bangladesh has not yet taken adequate legislative and administrative measures to comply with treaty obligations fully. Judicial interpretation and elaboration of human rights treaties has a normative impact on the application of human rights law in the domestic sphere and ensuring compatibility of domestic laws with human rights norms. The body of jurisprudence on interpretation on human rights treaties developed by the judiciary in Bangladesh has practical relevance in filling gaps in

compliance with human rights law. The judicial approach regarding application of unincorporated human rights norms in Bangladesh, however, remains inconsistent and conservative. A more liberal and robust approach is needed to ensure greater compliance with human rights norms in Bangladesh. While Bangladesh has ratified or acceded to most of the universal human rights treaties, it lacks full compliance with provisions of those treaties.

Bibliography

1. United Nations. General Assembly. (1949). *Universal declaration of human rights* (Vol. 3381). Department of State, United States of America.
2. https://www.ipl.org/essay/Literature-Review-On-Human-Rights-FKN7M5H4SCP6
3. Hamid, Dr. Kaji Akter, *Human Rights, Self-determination and the Right to Resistence*, 2nd ed. (Dhaka: Bhuiyan Academy, 1994), p.25.
4. Vasak, Karel, *The Internaltional Demension on Human Rights*, 1st ed. (Publication: United Nation Education, Paris, France1982), p.43-59.
5. Ann, Kimberly, June ,(1997) Corruption and Global Economy , editor ,Institute for International Economics, [1]
6. en.wikipedia.org/wiki/cario-history/humanrights,
7. *The constitution of the people's Republic in Bangladesh* Art 27
8. Goodman, R., & Jinks, D. (2003). Measuring the effects of human rights treaties. *European Journal of International Law*, *14*(1), 171-183.
9. Hathaway, O. A. (2001). Do human rights treaties make a difference. *Yale lj*, *111*, 1935.
10. Goodman, R., & Jinks, D. (2003). Measuring the effects of human rights treaties. *European Journal of International Law*, *14*(1), 171-183.
11. Dowsett, M., Allred, C., Knox, J., Quinn, E., Salter, J., Wale, C., ... & Buzdar, A. (2008). Relationship between quantitative estrogen and progesterone receptor expression and human epidermal growth factor receptor 2 (HER-2) status with recurrence in the Arimidex, Tamoxifen, Alone or in Combination trial. *Journal of clinical oncology*, *26*(7), 1059-1065.
12. file:///C:/Users/User/Downloads/SSRN-id2938851.pdf
13. Saffoon, N., Uddin, R., Huda, N. H., & Sutradhar, K. B. (2011). Enhancement of oral bioavailability and solid dispersion: a review. *Journal of Applied Pharmaceutical Science*, (Issue), 13-20.
14. Kumar, S., Alam, M. A., & Murthy, J. Y. (2007). Computational model for transport in nanotube-based composites with applications to flexible electronics.

15. Steiner, H. J., Alston, P., & Goodman, R. (2008). *International human rights in context: law, politics, morals: text and materials*. Oxford University Press, USA.
16. Coombes, J. L., Siddiqui, K. R., Arancibia-Cárcamo, C. V., Hall, J., Sun, C. M., Belkaid, Y., & Powrie, F. (2007). A functionally specialized population of mucosal CD103+ DCs induces Foxp3+ regulatory T cells via a TGF-β–and retinoic acid–dependent mechanism. *The Journal of experimental medicine*, *204*(8), 1757-1764.
17. National Human Rights Commission of Bangladesh, 2014.
18. Writ Petition No 7977 of 2008, 29 BLD (HCD) 2009.