



PROCEEDINGS

Hybrid Seminar on Human Rights in the 21st Century: Rhetoric and Reality

Wednesday, 23 March 2022

Organised by

Bangladesh Institute of International and Strategic Studies (BISS)





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HYBRID SEMINAR ON

Human Rights in the 21st Century: Rhetoric and Reality

23 March 2022

Bangladesh Institute of International and Strategic Studies (BIISS) organised a hybrid seminar on “Human Rights in the 21st Century: Rhetoric and Reality” on Wednesday, 23 March 2022, at the BIISS auditorium. **H. E. Dr. Shirin Sharmin Chaudhury, MP**, Hon’ble Speaker, House of the Nation, People’s Republic of Bangladesh, graced the occasion as the chief guest. **H. E. Ms. Nasima Begum, ndc**, Chairman of the National Human Rights Commission (NHRC) Bangladesh, graced the occasion as special guest. **Ambassador Kazi Imtiaz Hossain, PAA**, Chairman, BIISS, chaired the inaugural session, and **Major General Mohammad Maksudur Rahman, OSP, BSP, psc**, Director General, BIISS, delivered the welcome address.



Ambassador Kazi Imtiaz Hossain, PAA, Chairman, BIISS, chaired the working session and delivered his introductory remarks. Ms. Huma Khan, Senior Human Rights Advisor for the UN System, presented on “Framework of Global Human Rights

and Good Practices”, Professor Dr. Mizanur Rahman, Director, Bangladesh Institute of Law and International Affairs (BILIA) and Former Chairman, NHRC, Bangladesh, presented a paper on “In the Twilight of Human Rights Law: Diversity and Social Justice in Perspective”, Mr. Shubhash Wostey, Senior Protection Officer, United Nations High Commissioner for Refugees (UNHCR), presented his paper on “International Protection and Human Rights”, and Ms. Aroma Dutta, MP, presented her paper on “Ensuring Rights for Invisible Communities”.

Senior officials from different ministries of government, media, academia, researchers, teachers and students from different universities, and representatives from different international organisations participated in the seminar and expressed their valuable opinions in the open discussion session.

INAUGURAL SESSION

WELCOME ADDRESS



Major General Mohammad Maksudur Rahman, OSP, BSP, psc

Director General, Bangladesh Institute of International and Strategic Studies (BIISS)

At the outset of his speech, **Major General Mohammad Maksudur Rahman, OSP, BSP, psc**, Director General, BIISS, paid profound tribute to the memory of the Father of the Nation Bangabandhu Sheikh Mujibur Rahman and all martyrs who laid their lives down for the nation, while the entire nation is celebrating the Birth Centenary of the Father of the Nation and Golden Jubilee of Bangladesh's independence.

Major General Rahman noted that respect for fundamental human rights is considered to be a key component in the maintenance of a peaceful and stable international order. The UN Charter, its human rights mandate, and the Universal Declaration of Human Rights (UDHR) are recognised as remarkable turning points in global history.

Voices from different corners of the world are represented within these instruments, which generally take the form of a written declaration sponsored by the UN. These instruments incorporate a wide range of political, social, cultural, and economic rights. However, in all cultural contexts, different issues arise in executing these human rights. Despite the adoption of the UDHR and special covenants provided for safeguarding the rights of children, women, and the disabled, human rights are still being violated in every part of the world.



The Director General of BISS mentioned that several interrelated challenges in the 21st century threaten the effective exercise and protection of human rights. The transition to the digital age brings challenges for human rights. Social media platforms are used for spreading disinformation and hate speech that often violate privacy and undermines human rights. The misuse of new technologies, including Artificial Intelligence (AI), degrades the basic human rights condition. Likewise, the negative impacts of environmental degradation and climate change increase the challenges of basic human rights. Conflict and instability are also threatening the livelihoods of millions across the globe, and the world is witnessing the highest levels of displaced persons on record. Moreover, the rise

of populism that divides societies between “us versus them” also strikes at the core belief of equal dignity for all. Finally, increasing global income inequality in nearly all countries is an antithesis of human rights as it is interlinked with other forms of oppression.

He further added that while human rights violations are still a significant concern for the world today, some progress has been made in developed and developing countries to protect and advance human rights. For instance, Bangladesh has been participating in the United Nations Peacekeeping Operations (UNPKO) and has become one of the key contributors to establishing peace globally. It has successfully participated in 54 missions with the highest professionalism, loyalty and courage. The contribution of Bangladesh to UN peacekeeping has always been praised by the UN and the international community. Presently, Bangladesh is hosting more than one million forcibly displaced Rohingyas fleeing from Myanmar who experienced years of systematic human rights violations. Bangladesh has kept its commitment to international human rights law by not executing the forceful return (push back) of these forcibly displaced Rohingyas and providing them shelter, which was denied to them by many other governments. Bangladesh has become an example to the world for its humanity and generosity. Major General Rahman believes it is crucial to learn from the best practices of protecting and promoting human rights around the globe to ensure world peace and prosperity.

REMARKS BY THE SPECIAL GUEST



H. E. Ms. Nasima Begum, ndc

Chairman, National Human Rights Commission (NHRC) Bangladesh

H. E. Ms. Nasima Begum, ndc, Chairman, NHRC, Bangladesh, in her speech, said that human rights are fundamental for having a view of how a society is structured and the world is governed. They are not limited merely to political boundaries or classifications, and their preservation is equally important in peacetimes and wartimes. At present, a global pandemic, besides growing violence worldwide producing gross violations of human rights, is being witnessed; conflicts are going on in Ukraine, South Sudan, Yemen, Syria, Libya, Afghanistan, Palestine, etc. There is hardly any country on earth without problems concerning human rights issues, which makes the preservation and promotion of these rights worldwide an urgent task.

Ms. Nasima Begum opined that human rights are basic rights and freedoms that belong to all people globally regardless of their race, skin color, sex, creed, language, or any other affiliation. Everyone is entitled equally to human rights without any discrimination and prejudice. These rights cover nearly all aspects of human activities, including civil,

political, economic, social, and cultural rights. The concept of human rights is based on the belief that there are some basic, organic protections and freedoms that all people should have. Globally, in developed and developing countries alike, there are popular demands that call for observing, deepening, and widening human rights, including for greater economic justice and greater political freedom. A concern for the promotion and protection of human rights on all fronts is now woven into the fabric of contemporary world affairs. Bangladesh is also no exception to this trend. In this regard, the speaker remembered the Father of the Nation, Bangabandhu Sheikh Mujibur Rahman, with solemn respect; within the ten months of Bangladesh's liberation, he formulated the constitution of the country, which is the supreme law of the land. Articles 15 and 26-47 of the constitution guarantee the basic rights of the people. It contains provisions in these regards in different forms and reflects 30 articles of the Universal Declaration of Human Rights (UDHR).

Ms. Nasima Begum informed the audience that the National Human Rights Commission of Bangladesh, since its inception, has been relentless in its efforts to protect the inalienable, fundamental human rights of all individuals and improve the standards of human rights in the country. The commission has an extensive mandate: it oversees the human rights situation of the country as a watchdog, plays an advocacy and catalyst role to push forward the human rights agenda, and acts as a bridging institution that collaborates with CSOs, NGOs, government, providing a platform for exchanging views and ideas. To look over issues that require special attention, the organisation has established 12 thematic committees, which include rights of minorities (racial, ethnic, and gender), migrants, women, children, and even issues relating to climate change, environment, disaster management, business, and other rights, etc.

She opined that human rights are more expanded than other rights. The last two years have been years of human disaster. The global Covid-19 pandemic has taken a profound toll on the human rights situation globally. Increased wars and violence in many regions worsened the situation further. The world is also witnessing an unprecedented degree of mass displacement. Bangladesh has not gone unaffected. The country suffered from the impact of the pandemic and violence in its neighboring country. The NHRC has been concerned about the possible degradation of living conditions of the marginalized population of the country, including Dalits (the untouchable), the third gender, and all other excluded minorities during the pandemic. During the pandemic, violence against women has increased globally and nationally. The NHRC has long been concerned about



levels of violence against women and girls in Bangladesh and the lack of a systematic response. It, therefore, decided to act authoritatively by conducting a National Inquiry on Violence against Women and Girls with a focus on rape. It consulted national human rights institutions at the international level that have experience in conducting national inquiries, and exchanged views with the former chief justice, district and session judges, women and children's tribunal judges from all 64 districts, chief judicial magistrates, chief metropolitan magistrates, officials from Law and Justice Division, Legislative and Parliamentary Affairs Division, etc. A few hearings with Civil Service Organisations (CSOs), journalists, lawyers, police, and local administration were conducted. Perpetrators, survivors, and people were interviewed to understand the root causes, patterns, barriers faced by such survivors, their families in receiving support, obtaining justice and remedies, and psychological aspects of the perpetrators and the people. The NHRC has already shared its findings, challenges, and recommendations with the Hon'ble Speaker and the respective parliamentarians in these regards.

At this point in her speech, Ms. Nasima Begum shared some good practices of NHRC, Bangladesh. Recently, the NHRC formed district human rights committees; human rights focal desk officials are being nominated by all ministries. Besides, it

provides legal aid to vulnerable groups and creates awareness of human rights. The NHRC has been able to raise awareness using platforms like virtual events, webinars, TV talk shows, newspaper publications, television commercials (TVC) broadcasting, etc. An online human rights course has been launched. It is also engaging students by organising essay competitions on human rights and ethical values. The NHRC is going to become a digitalised institution. With the support of the UNDP, it is developing an Integrated Digital Office Management Systems. The speaker believes that a comprehensive digital system will help the commission to manage complaints and Suo-moto cases of human rights violations digitally from root to centre and abroad, where Bangladeshi migrant workers can also lodge complaints against violations of their rights. This will enable the NHRC to record, analyze data, and generate reports relating to human rights violations.

She discussed some praiseworthy feats of Bangladesh in the areas of human rights protection. She mentioned that according to the World Economic Forum (WEF), Bangladesh holds the topmost position in ensuring gender equality in South Asia, seven times in a row. The country is also hosting more than a million forcibly displaced Rohingyas within its borders. It has successfully upheld its commitment to international law by not forcing their return. The government also took positive steps by restoring the internet in the camps and allowing them to study under the formal Myanmar curriculum through secondary school. All these are welcomed by the Commission and the world as well. Apart from these, the government's attempts to vaccinate all of its population against Covid-19 in a short time is truly commendable. But the situation demands all concerned to come forward and play a strong role in the process of Rohingyas' repatriation to their ancestral land, which is their right.

Ms. Nasima Begum highlighted some of the major instruments of international human rights, including the UDHR (1948), International Covenants on Economic, Social and Cultural Rights (ICESCR, 1966), and the International Covenants on Civil and Political Rights (ICCPR, 1966), which were signed over 50 years ago. But the world since then has tremendously changed. Each day, new advancements in science and technology are coming up. Globally, the wealth gap is rising. New technologies have widened the scope of discrimination between and among people than before. During the pandemic, the digital divide in many developing countries clearly came to the fore. Vaccine hoarding by several wealthy nations also highlighted the need to ensure universal rights to basic health.



She concluded her remarks by noting that it is essential to broaden the understanding of human rights with a view to addressing challenges in the 21st century. It is also important to change the understanding as regards who is the global guardian of human rights; it is not only the government's duty to ensure human rights; rather, all concerned must be human rights activists and advocates as rights and responsibility are complementary to each other. Providers and enjoyers alike have responsibilities to implement human rights. Thus, it is necessary to educate all about basic human rights and act together. The speaker concluded by saying that not only an individual or a specific community/group's rights but also those of others must be defended equally.

ADDRESS BY THE CHIEF GUEST



H. E. Dr. Shirin Sharmin Chaudhury, MP

Hon'ble Speaker, House of the Nation, People's Republic of Bangladesh

Ambassador Kazi Imtiaz Hossain, PAA, Chairman, BISS

Major General Mohammad Maksudur Rahman, OSP, BSP, psc, Director General, BISS

Ms. Nasima Begum, ndc, Hon'ble Chairman, Human Rights Commission Bangladesh

Distinguished guests, participants, hon'ble members of parliament, all members of BISS

Assalamu Alaikum, good morning, Shubho Shokal.

It is indeed a great pleasure and a very special honor for me to join the hybrid seminar on “Human Rights in the 21st century: Rhetoric and Reality”, organised by the Bangladesh Institute of International and Strategic Studies (BISS). I am very happy to be here, and as I see from the programme that there will be discussions on this topic by very distinguished panelists, and it will definitely generate a great deal of interest, enthusiasm, and proactive discussion from which we can all learn.

This is the month of March, a very significant time in the life of the nation. This is the month, on the 26th of March, we will celebrate our Independence Day. At this auspicious moment, I would like to pay my tribute to our Father of the Nation, Bangabandhu Sheikh Mujibur Rahman, and all the martyrs who laid down their lives, including our mothers and sisters, for their sacrifice in the emergence of Bangladesh as a sovereign country on the world map.



Human rights is a very vast topic, and when I was requested to speak on this, I had to think about where to start, where to end, and what would be the succinct points I could possibly share this morning with all of you.

Respect for human rights is an essential tenet for the maintenance of peaceful global order. It was in the backdrop of the widespread atrocities committed during the Second World War that fundamental human rights propelled to the centre stage.

Interwoven throughout the Universal Declaration of Human Rights, the UN Charter spelled out that the promotion of universal respect for human rights would be vital in

creating conditions of stability and well-being for nations. And there was wide consensus on this premise which led to the adoption of the Universal Declaration of Human Rights in 1948. The UN Charter recognising and reaffirming its faith in its preamble in fundamental Human Rights in dignity and what the human person in the equal rights of man and woman, marked a watershed in the discourse of international human rights.

While this is the International Human Rights Framework, the treaty framework where we find the concept of human rights, let me also touch upon the political philosophy of human rights that constitutes the bedrock of human rights, which even goes much before this, and we have to look at the 16th, 17th, 18th century to see how the concept of human rights actually developed through that process.

John Locke, a political thinker, conceived the idea of rights as natural rights, God-given rights, and divine rights in 1689, and he limited the list of rights to a very short list: the right to life, right to protection of life, liberty, and property. Universal Declaration of Human Rights in 1948 expanded the short or the brief list of Locke's rights to a long list, such as the right to free education, public medical care, etc., and today if we look around, we will see that the concept of human right now actually denotes a much wider arena and includes many more rights that were initially thought or perceived by political thinkers.

But there has been criticism of this expansion also. Critics have opined that the right's list, if it is so long, then it may risk becoming a wish list. It may just become not a claim, not something that you can get when you say that this is my right, but it may be just your desire if you stretch it too far. It is argued that we need to claim rights in order to create them. Human rights exist, and it ought to be recognised. This is the crux of the issue. We do not create human rights, human rights exist, and we only can recognise them—claims to rights and demands that cannot be ignored as requests or wishes. Thus, there is a clear distinction when we are saying that this is a fundamental human right, then definitely it is not just a request or wish list. It is much more than that.

Demands for what human rights are have become the unchallengeable justification for metastasis of entitlement. So, there has to be justification for the claim and for that entitlement. And only then we can say that it is a right. To have a right is to have a standing to claim it. If we do not have the standing to claim it and if nobody respects that claim, then we cannot say that that is a right.



Ronald Dworkin, philosopher of Law at the Oxford University, explained in his very famous book *Taking Rights Seriously*, which is the name of his book, where he explains individual rights are political trumps held by individuals. Individuals have rights when for some reason, a collective goal is not a sufficient justification for denying them what they wish as individuals to have or to do.

Therefore, a collective goal may not be a justification to override the claim of an individual. And if that is the case, then that is a right of the individual. Dworkin attributes individuals' rights to whatever they wish. He allows an individual's wish to be denied but the burden of justifying the denial rest on us. And we must show that the right in question is not in the collective interest. Thus, only, in that case, you can deny a right. But other than that, you have to accept it. That is Dworkin's way of looking at it.

Now the concept of human rights can be traced to Locke's concept of rights that existed in the state of nature, which he called natural rights. Locke's reasoning was right to life, liberty, and property existed in the state of nature. And that is what is also found when we are talking about human rights. That it already exists; we do not create it, the



state does not create it, and the government does not give it to us. We have already inherited that right, and Locke says that these rights, the rights which were generated, which already existed in the state of nature, did not have the protection of the government, nor were they created by the government. Therefore, Locke called them natural and said they were instituted by God, the creator of nature. But again, there was a big criticism of Locke's discourse by Bentham, who never believed in natural rights, but believed in positive empirical rights, which are more evident and can be backed by evidence. However, those are the political discourse and different views from which we can trace how the rights have emerged.

But this notion finds resemblance with the concept of human rights as we understand it. These human rights are inherent, inalienable, and indivisible rights of all human beings. Human beings inherit these rights by virtue of being born as a human, irrespective of nationality, sex, place of residence, ethnic origin, language, etc. Thus, the fact that you are born as a human being, you come with these rights: the right to life, the right to liberty, and many more. And these are the rights that nobody can take away from you without reasonable justification or grounds. Human rights are not absolute. They

can be taken away, but it has to be subjected to reasonable restrictions. And every state is under an obligation to respect, promote and uphold these rights. Accordingly, that is the basic concept from which we can have an idea about what we mean when we talk about human rights.

Now in the context of our own country Bangladesh. Our constitution, which was promulgated in 1972 by our Father of the Nation Bangabandhu Sheikh Mujibur Rahman, is a sterling example that is the supreme law of the land, and it upholds human rights. Fundamental human rights are enshrined in part three of our constitution, and as you know, on his return to Bangladesh after independence for the first time on 10th January 1972, the Father of the Nation, on 11th January, declared the proclamation the constitutional order under which the process of writing a constitution for an independent country started. Consequently, that itself signifies how much importance our Father of the Nation Bangabandhu attached to having a constitution for an independent country. Within the shortest possible time, within the time frame of nine months, on 4th November 1972, Bangladesh's constitution was passed in the Gono Parishad, and on 16th December 1972, it came into force within a very short time. If you look at, if you go through the constitution, it is absolutely clear that Bangladesh is committed to promoting and protecting human rights.

In our constitution, which is the supreme law of the land, and article 7 is the polestar, which says that all power of the republic belongs to the people. Subsequently, people are sovereign, and all power is generated by the people, which is exercised by the representatives who are elected to the parliament. The Bangladesh constitution upholds and cherishes respect for human rights. Bangladesh has given shelter to 1.1 million Rohingya people whose human rights were gravely violated in their own country Myanmar, and we still have the Rohingya people in our country, and this is also another example of the respect for human rights that Bangladesh has been able to show to the world.

Our Hon'ble Prime Minister Sheikh Hasina spent maximum time, maximum years of her life in her struggle to restore democracy and uphold the rule of law and bring back the constitutional rule again in Bangladesh. And therefore, she is an ardent promoter of human rights beyond question.

Now let me just conclude with today's topic: rights, human rights, whether rhetoric or reality. An analysis of the impact of fundamental human rights is likely to tilt the argument in favor of rhetoric, as rhetoric serves as a great tool for politics to bring about or create a common terrain for the diverse culture of all people.

Therefore, when human rights are served as rhetoric, it serves the political purpose of bringing about convergence between the diverse cultures of all people. Because we live in a diverse world, and we want to have an inclusive society.



The 21st century human rights must also be seen as instrumental in ensuring social stability, social justice, the building block for upholding the rule of law and good governance, respect for human rights and fundamental freedoms must be seen as a cardinal principle of promoting equality, gender equality, inclusiveness and sustainable socio-economic development across diverse global societies. Thus, it is very important to ensure respect for human rights because to attain the other goals, we have to ensure respect for human rights.

I want to emphasise human rights in the 21st century is as much rhetoric as a reality. Human rights as rhetoric can serve as an important tool in converging common grounds in the diverse global order. It can be responsive in finding common grounds in a diverse culture. Human rights, in reality, can be effective in maintaining international peace and order.

I want to conclude with one of my favorite quotes of mine which is from Robert Kennedy: “Every time we turn our heads the other way when we see the law flouted when we tolerate what we know to be wrong when we close our eyes and ears to corrupt because we are too busy or too frightened, when we fail to speak up and speak out we strike a blow against freedom and decency and justice.”

Therefore, let us then apply this principle in any situation of violation of human rights to promote and uphold human rights for a peaceful international order. In my thesis on the right to life in my Ph.D., I ended with a quote, which is very close to my heart, and I want to share that quote with you:

“It is justice not charity that is wanting in the world.”

Thank you for your patience hearing.

May Bangladesh live forever.

Joy Bangla.

REMARKS BY THE CHAIR



Ambassador Kazi Imtiaz Hossain, PAA

Chairman, Bangladesh Institute of International and Strategic Studies (BISS)

Ambassador Kazi Imtiaz Hossain, PAA, Chairman, BISS, welcomed all at the hybrid seminar on Human Rights in the 21st century: Rhetoric and Reality. He paid his deep homage and profound tribute to the father of the nation, Bangabandhu Sheikh Mujibur Rahman, three million martyrs, and four hundred thousand women for their supreme sacrifice for the country's liberation.

Reflecting on the human rights issue, Ambassador Hossain that article 1 in the Universal Declaration of Human Rights was adopted in 1948, proclaimed "All human beings are born free and equal in dignity and rights." The declaration articulates that fundamental human rights are universal.

The UDHR and its two protocols, International Covenant on Civil and Political Rights and International Covenant on Economic, Social, and Cultural Rights, formed the International Bill of Human Rights. Despite being non-binding in nature, the UDHR inspired over seventy human rights treaties and influenced the evolution of human rights globally and nationally. However, Ambassador Hossain mentioned there is a visible gap between preaching and practice of universal human rights, and the issue remains contested worldwide.

Ambassador Hossain stated that Bangladesh was born out of a long and heroic struggle against injustice, oppression, and discrimination to establish people's rights. It was only natural for Bangladesh to commit and uphold human rights. In 1974, Bangabandhu Sheikh Mujibur Rahman in UNGA declared the commitment of Bangladesh to a world order based on peace and justice.

Bangladesh was envisioned by Bangabandhu as a country that would uphold principles of equality, inclusivity, democracy, and justice. Thus, Bangabandhu enshrined UDHR in the constitution to ensure the promotion and protection of fundamental human rights. Bangladesh is a signatory to all the human rights treaties, including UHDR, International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention against Torture and Other Cruel, Inhumane, Degrading Treatment or Punishment (UNCAT), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Committee on the Elimination of Racial Discrimination (CERD), CMW, United Nations Convention on the Rights of the Child (UNCRC), and many more. Bangladesh strongly supports the UPR mechanism and is committed to the obligations that come with the treatise.

Ambassador Hossain opined that more than 73 years after the adoption of UDHR, injustice, and oppression are still a sad reality in many parts of the world. Brutal Rohingya persecution is a glaring example of gross human rights violation. He mentioned that despite not being a signatory of the refugee convention or protocol, Bangladesh upheld humanity and provided shelter to over a million refugees.

Ambassador Hossain then highlighted two different phenomena that needed close attention. The first one is climate-induced migration, and the other one is the rights of migrant workers. Climate-induced displacement is caused by environmental factors which affect millions of lives. Natural and man-made disasters will force 200 million people to migrate by 2050. Climate change remains an existential threat to humanity, and Bangladesh is one of the most vulnerable countries in the world.



He emphasised Bangladesh's vulnerability due to sea-level rise, which can submerge 20 percent of the landmass and displace 30 million people. Many pacific islands like Marshal Islands, Tuvalu, and Kiribati are experiencing the same crisis. The countries are facing disasters that are not their creation. Countries responsible for environmental catastrophes are not willing to share the responsibility. New Zealand has set an example for the world by accepting Kiribati migrants, and the world must share the responsibility. The world has a moral obligation to protect the human rights of the climate-displaced people.

Secondly, he put forward the question of migrant workers' rights globally. Migrant workers have always played a key role in pushing ahead the socio-economic development of many countries around the world. Even with their significant contribution to development, migrant workers face discrimination and remain vulnerable. For example, one can look into the disproportionately high access to healthcare, social security schemes, and livelihood opportunities.

International Convention on Protection of the Right of All Migrants Workers and Members of Their Families, a UN convention which was ratified just by countries of origin of migrants and none of the recipient countries. Ambassador Hossain, therefore, pulled the question: are migrants not considered human enough to enjoy human rights in all the countries in the world.

Ambassador Hossain highlighted that recently, racial discrimination, xenophobia, hate crimes and speech, ultra-nationalism, populism, and extremist conservative ideologies instigated human rights violations and threatened fundamental freedoms. Sadly, the preachers of human rights on the world stage are sometimes acting as violators of fundamental rights or failing to protect them.

He proceeded to the working session in the hope that the distinguished panelists would search for explanations and answers to the most pressing human rights questions in the 21st century. He concluded the inaugural session by thanking the chief guest and special guest for their enlightening speech on human rights, which encapsulates the spirit of upholding human rights everywhere.

WORKING SESSION



Ms. Huma Khan

Senior Human Rights Advisor for UN System

Ms. Huma Khan, Senior Human Rights Advisor for the UN System, began her deliberation by focusing on the history of the seminar's subject matter, as she believed the question the seminar was addressing was very pertinent in today's reality. It should also be examined why human rights were needed to begin with. Here, she referred to previous speakers who mentioned the issue received importance with the backdrop of the Second World War, the atrocities perpetrated throughout its course, the world coming together more, i.e., different continents meeting each other more frequently, etc. Then it was realised that a set of frameworks would be needed that everyone would be abiding by. Before that, however, societies had their own frameworks based on their respective culture, religion, and value systems that existed in different parts of the globe. Human rights principles that are enshrined in the UDHR tried to bring these values together to make something that would suit everyone, more or less, despite the fact that when the

resolution was adopted, not all countries were independent or represented. It has been a long journey since then; different conventions have come in at different times according to the needs and developments of the discourse. But some questions still remain, e.g., the inalienability of human rights, whether they can be removed from a person or not, it can be, then in what circumstances, and how extreme those circumstances should be. There was also the question of culture coming in how human rights adapt to different cultures, and there are people who feel their cultures or values are not being addressed necessarily by the principles that are there.

The framework has been growing with these developments. It is not static; what was available during the UDHR's adoption is not the only reality today, and there is a huge discourse around women's rights that was not there at that time. There are discourses on the rights of transgender people, migrants, climate change, etc. All these indicate the framework's dynamic character. Here, Ms. Khan pointed to the contribution of Bangladesh, which is the right to speak one's preferred language/linguistic right. This was most profoundly pronounced by Bangladesh, and now the day is celebrated as International Mother Language Day.

Human rights discourse is a conceptual framework. This framework is used to certain groups of people's advantage who interpret it in their own way. Thus, when one looks at the way international human rights discourse functions, that person must understand it is primarily embedded in the member states. They (Bangladesh is one of them) decide which convention should be there, to give a mandate to the functioning body of the UN for implementation or not. Member states are obviously not homogenous; there are lots of differences, and political and economic considerations, due to which human rights often do not remain at the top of their respective agenda. This brings in the question: how relevant are human rights today? This is an important question to dwell upon, and the speaker was happy as it was being addressed in the seminar. She said if it were taken out, then what would be the aspirational framework and define the value systems. Bangladesh, for example, has a large Muslim population and the religion here defines the value system. But what about those who did not belong to the same religion? There are people who speak a specific language in a group, but what about those who do not speak that language? Therefore, a set of aspirational rights or, at least, a framework has to be there to unite all. That is why the United Nations is named as such because human rights came as the uniting factor to bring the whole world together. These were the principles.

Nevertheless, Ms. Khan opined th there are always gaps between principles and reality. There is no doubt about these gaps and the state. The world, in recent times, has witnessed a kind of revolution in the use of digital technologies in human rights issues. But most people do not know how to handle the digital outpour of comments, writing things, or even infringing upon others' rights, sometimes consciously or unconsciously, hate speech or campaigns against certain individuals, all of which are reality. States have the responsibility to ensure law and order; they must also make sure the aforementioned activities are regulated. Platforms that provide such space also have an obligation to provide a certain code of conduct or technology which people cannot cross. Some of them have codes of conduct, but those are not strictly implemented. The other part is the user. What does the user need to know about rights and responsibilities? Because, for many, it is a big opportunity, e.g., those who do not get to express themselves in other places but now can in the digital space. However, they are now doing that without knowledge and in ways that are not necessarily appropriate. Now, the issue is if criminalising this behavior will solve the problem. Different opinions exist in this regard. Several countries have criminalised digital expressions, but Ms. Khan questioned if that was the only way to control that. It is a major addition to freedom of speech, expression, and opinion and also allows people to learn much more; here, the speaker said the younger generation of today knows much more than she knew at their age. The question is: do authorities take away freedom or want to see people use the new technology in a responsible manner? Using the technology to its advantage is a huge asset. Things that are not right should also be controlled by educating people. The speaker asked if there was digital education in schools or universities. Most people know about the code of conduct for acting on digital platforms, and putting someone behind bars will certainly not solve the whole issue.

Apart from issues of criminalisation and prosecution, there is a need to look at the code of conduct and educate citizens, especially the younger generation, to abide by that code of conduct; the education system has a huge role to play here, and that is one view Ms. Huma Khan was representing in the seminar. It is, moreover, not just the state's responsibility; there are businesses in many countries that are more powerful than the state itself. They even form and sometimes remove governments. How do we hold them responsible? Because climate change is a question linked with businesses, codes of conduct, and business regulations. Lots of climate change disasters are also linked as big businesses often act irresponsibly, thus creating suffering for a large number of people.



Some states, nonetheless, are able to regulate these, but economic interests have become so overwhelming that reluctance or lack of capacity is quite common on the part of states to control big, powerful businesses. This area is still under development in the human rights field. There is a code of conduct for responsible business, a whole concept of business in human rights; there are big businesses who abide by these codes, albeit it is a voluntary pledge, like all conventions are voluntary for a state to make and when it binds itself. The UN is also working to make sure businesses abide by a certain code of conduct that puts some responsibility on them, but it is not corporate social responsibility that merely involves spending money. In other words, it is not like a project is implemented in an area displacing thousands of people, and then some charity is run as a sort of compensation. Rather, it is about respecting the rights of people there and having a rights-based approach like the governments are supposed to have. In the same way, businesses also need a rights-based approach. The task is very challenging as it is still too early.

Ms. Khan mentioned that an event, the South Asian Business and Human Rights Forum, would be held in Bangladesh from 29-30 March 2022. The UN was interested in seeing how the Bangladeshi business community would come to take it forward. But that is a big area and directly linked to climate change. There have been some developments on the climate change front, and Ms. Khan thanked Bangladesh for pushing forward

for a special rapporteur on environmental rights, which was approved by the Human Rights Council last year, and now there will be a rapporteur looking into these rights. But that may not be sufficient as there remain vast gaps between developed and developing countries with them taking their roles and responsibilities more seriously. At present, there is no binding convention, and that will be a very difficult obstacle, but it is not that there is no discussion going on in this regard either. The Conference of Parties (COP) 26 (31 October-13 November 2021) was a discussion where many countries made pledges or commitments. However, these obviously are long-term processes.

Similarly, human rights are not achieved in a day or two or decades. How the framework will be used relies on the user, and if it is only made into a political tool, then it becomes a matter of words that member states can use against each other, and some states may also use it against their own citizens. At the same time, if the values are themselves looked into, then there are lots of opportunities and things to do. Because it must be remembered that before this framework existed, it was very difficult to define concepts that come naturally, for example, equality or discrimination. People now can recognise and express these as they have the terminology, which is a growing and shared framework for everyone in this world. Hence, it is important for all to own this framework and develop it. This does not belong to any particular set of nations or races. Often, there is a feeling among people of the global south that the human rights framework primarily reflects western values. Ms. Khan asked the audience where they had come to know first about justice or equality, perhaps, not in their school textbooks but rather when they began their religious education. All religions have such concepts. She then opined that people should look back at where these values belong to them and not consider those as external ideas as they have grown with all people. Here, she brought in two major contributions Bangladesh made, although there were many more. If human rights are viewed as an external concept, then people will not be able to own it. It is, in fact, a shared concept where the global south has made more contributions than the global north. They should feel proud about these contributions, helping the framework grow, own, and implement.



Professor Dr. Mizanur Rahman

Director, Bangladesh Institute of Law and International Affairs (BILIA), and
Former Chairman, National Human Rights Commission (NHRC), Bangladesh

At the outset, **Professor Dr. Mizanur Rahman**, Director, BILIA, and Former Chairman, NHRC, Bangladesh, expressed his sincere gratitude to BIISS for organising the seminar and inviting him to make a presentation that covers several issues like: Is social justice merely soothing legal opium or illusory war of words only? Where is the place of human rights in the logo of social justice? Is social justice on the agenda of action today? And how far talk of social justice is legitimate to improve the human condition and hence human rights?

Dr. Rahman noted some common observations related to social justice and human rights, which he termed common wisdom, among which the first one he mentioned was “Human beings everywhere demand realisation of diverse values to ensure their individual and collective well-being.” He remarked that the issue of tension between the individual and the collective for human rights has already been discussed by the Hon’ble Speaker, House of the Nation, People’s Republic of Bangladesh, in her deliberation. Secondly,

“These demands are painfully frustrated by social as well as natural forces resulting in exploitation, expression, oppression, persecution and other forms of deprivation.” And the third one is, “When we talk of social justice establishment of a society based on the rule of law, human rights, equality, liberty indeed becomes pertinent.” Dr. Rahman believes that people cannot talk about social justice or a society based on human rights without these concepts, and any discussion without these concepts would be merely a hollow discussion of human rights.

Dr. Rahman shed light on the concept and the origin of human rights. He stated that people inherited human rights from the understanding of natural rights. It is important to understand this because “Universal working forces pervades all creation and human conduct, therefore, should be judged according to and brought into harmony with the law of nature.” He discussed the understanding of the law of nature with the instance of the Antigone vs. Creon case in Sophocles’ drama. Referring to Voltaire and Rousseau, Dr. Rahman mentioned that certain rights self-evidently pertain to individuals as human beings; chief among them are rights to life, liberty, and property. Dr. Rahman said that humankind has decided, as a matter of the social contract, to surrender to the state only the right to enforce these natural rights, not the rights themselves. Therefore, the duty of the state is to promote and protect these rights since the state is not the giver of those rights but the protector. Referring to Thomas Jefferson’s quote, “free people claiming their rights as derived from the law of nature and not as the gift of their Chief Magistrate”, Dr. Rahman argued that no executive has the right to give natural rights.

Dr. Rahman then conceptualized human rights with the help of some important documents from the 16th, 17th, and 18th centuries. Referring to the Declaration of Independence, 1776, he quoted, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable Rights that among these are life, liberty and the pursuit of happiness.” This declaration was a tremendous achievement for human civilisation. Explaining the concept of “in pursuit of happiness”, Dr. Rahman noted that this could incorporate many things; anything and everything can be incorporated in pursuit of happiness. He also quoted from the Declaration of the Rights of Men and of the Citizen, 1789: “Men are born and remain free and equal in rights”. This short statement, in his opinion, speaks for all.



Dr. Rahman underscored some accepted postulates of human rights, which he enumerated as: “Human Rights are understood to represent individual and group demands. Human rights refer to a wide continuum of value claims ranging from the most justifiable to the most aspirational. Human rights are universal, including all, someone even the unborn. Most assertions of human rights are qualified by the limitation that the rights of any particular individual or group in any particular instance are restricted as much as is necessary to secure the comparable rights of other/ aggregate common interests.” He stressed that there might be some restrictions put on human rights, but those need to be based on objective rationality and reasons, and based on that, there can be certain restrictions. But these restrictions are to be on an ad-hoc or interim basis, not once and for all. There are fundamental human rights as distinct from “mere wants”.

Dr. Rahman believes that the basic postulate of human rights is nothing but ensuring a life with dignity. Bangladesh’s proclamation of independence in 1971 was to ensure equality, social justice, and human dignity for the people of Bangladesh. Human rights, in his opinion, can be expressed as the summation of equality, social justice, and human dignity. Without social justice and dignity, there are no human rights. Dr. Rahman pointed out some challenges and unresolved areas in human rights jurisprudence at this point of his speech. The first one he highlighted was the

dichotomy of generations of human rights. People used to refer first, second, third, and fourth generations of rights, with which he disagrees. He argued that human rights are indivisible; they are correlated, interrelated, and interdependent and thus cannot be divided. Another unresolved debate is the right to have rights. Now people have floated a new demand—the concept of the right to have rights. It is crucial to ensure the right to ensure rights. Every individual in society must have the right to have rights. Still, there are many people around the globe who are not considered human beings and thus do not have the right to have rights. Another critical issue is the unipolar world order after the fall of socialism. Dr. Rahman also highlighted the challenge of delimiting the boundary of freedom of expression. The next debate he focused on was the enforcement and culture of impunity. He believes that there should not be any culture of impunity, and everything has to be based on the rule of law.

Dr. Rahman stressed the importance of social justice. He noted that the content of social justice needs to be understood in the light of equality, social dynamics, prevailing laws, and the political stature of a society. Social justice is people's justice where the tyranny of power is transformed into the democracy of social good. So, according to him, the ideal of social justice is: "Justice without power is inefficient; power without justice is tyranny. Justice without power is opposed because there are always wicked men. Power without justice is soon questioned. Justice and power must therefore be brought together so that whatever is just may be powerful, and whatever is powerful may be just." Dr. Rahman argued that social justice is based on the concepts of human rights and equality. It involves a greater degree of economic egalitarianism through progressive taxation, income redistribution, or even property redistribution.

He noted that the constitution of Bangladesh inscribes justice as the first promise of the Republic, i.e., state power will execute the pledge of "Justice" in favor of the millions who are the Republic. He shed light on the issues of diversity and indigenusness with respect to social justice. He doubted whether people truly believe in unity in diversity. He expressed his reservation in using the terminology small for denoting the ethnic minority living in the country. Focusing on the issue of sustainability and productivity, he mentioned that ethnic minorities believe in sustainability. They are the nurturers and protectors of the forests. They believe in collectivity and cooperation and are opposed to individuality and competition. They rely on collective communal ownership, where the benefits are accrued by the whole community. They depend on natural organic things in contrast to genetically engineered things. They trust in spirituality and subsistence living.



Dr. Rahman questioned whether people are now living in the betrayal of social justice. According to him, what people are experiencing is the administrative heartless insensitivity to human rights. At this point, he praised Prime Minister Sheikh Hasina for her leadership in steering the country into the age of development and upholding human rights. However, he pointed out that many of the ongoing good initiatives are based on charity. But people do not want to live on charity. He argued that social well-being should be people's right, not charity. Therefore, the main goal of human rights activities should be transforming charity-based work into rights-based work. He believes that society still has many challenges like widespread gaps between the rich and the poor, small ethnic minorities' lack of land ownership and control of means of production, land acquisition in the garb of politics of development, exploitation of the voiceless people, for example, Dalits, women's non-access to property rights, child exploitation, sub-human slums and shanties, denial of access to justice—judicial, economic, political, the lawlessness of laws, and corruption. In his opinion, the odyssey of national progress could be marred by these human rights tragedies. Before concluding his speech, Dr. Rahman suggested that Bangladesh needs more pro-people legislation and inclusiveness to materialise Bangabandhu's dream of Sonar Bangla.



Mr. Shubhash Wostey

Senior Protection Officer, United Nations High Commissioner for Refugees (UNHCR)

Mr. Shubhash Wostey, Senior Protection Officer, UNHCR, spoke on how the rights of the forcibly displaced people worldwide are part of human rights, showing some linkages as to how they are part and parcel of the broader human rights concept, rights of refugees, asylum seekers, internally displaced people, stateless people around the globe, how the UNHCR works together to mobilise the mechanism at the national, regional and global level to help these people in exercising their rights. He acknowledged and conveyed his admiration for the generosity of the Bangladesh government and people from all walks of life, which has been extended now to over 1.1 million Rohingyas in the country. In the last influx of 2017, he himself was working in Cox's Bazaar and witnessed how the Bangladesh government and the host communities have extended their generosity to these people fleeing persecution in Myanmar. He, in this regard, conveyed profound appreciation from his organisation and personally. He then quoted Ms. Gillian Triggs, Assistant High Commissioner for Protection, UNHCR, who, in 2020, at the 43rd session of the council, said how international human rights and related laws are key to protecting rights of refugees, asylum seekers, forcibly or internally displaced people within a country.

He noted that when forced displacement happens, it starts with the violation of the rights of those people displaced. Their human rights are also violated when they are fleeing, waiting in many parts of the world for protection through due processes, and also afterward. Such situations do not isolate asylum seekers, refugees, stateless people, and internally displaced people from the overall umbrella of universal human rights. As part of the UN mechanism, the UNHCR works closely with various stakeholders to ensure these rights are upheld and respected and people are enabled to exercise their rights. As such, the human rights mechanism of the UN comes in. Human rights are a cross-cutting theme and exist in all UN policies and programmes. It is the UNHCR's job to work across the whole UN gamut, their partners, stakeholders, from authorities to regional bodies, civil societies, NGOs, international NGOs, donors—everyone. to make sure that human rights are streamlined, mainstreamed into providing and ensuring the protection of the people they serve. As of 2021, they are serving about 84 million such people. However, in the last few weeks, about 3.5 million Ukrainians have been uprooted from their homes. Thus, the number and challenges these people face keep increasing. Behind these numbers, moreover, there are human lives—women, children, disabled, vulnerable in many other ways, etc. These, particularly and in the universal sense, are one of the most marginalized people around the globe who continue to face challenges and stigmatization while asylum provision continues to shrink over the years. Mr. Wostey witnessed them face discrimination and xenophobia while working in different parts of the world.

He further added that refugees and asylum seekers also face poverty, exclusion, and are denied access to basic rights, which are otherwise taken as granted. Now, the realisation of their rights is centralized and mainstreamed in various UN efforts that are made in conjunction with member states across the world. The UNHCR and some other UN agencies have made some specific efforts over the last few years to advocate the realisation of these rights as part and parcel of the broader global enterprise of enabling people to exercise and enjoy the rights they have. However, the rights of asylum seekers, refugees, and stateless people are not only enshrined in some particular instruments but also in that are either legally or morally binding but in other different instruments too. Here, Mr. Wostey mentioned some of those. For example, the right to seek asylum, as has been referred to in the UDHR, provides that right. The UDHR may not be a legally binding document but an indispensable part of international customary law and is morally binding; access to territory and access to seek asylum are incorporated into the International Convention against Torture, United Nations Convention on the Rights of the Child (UNCRC), protection against refoulement, i.e., forced return, of someone who



is seeking asylum in a territory where his/her life and liberty will be addressed. Such rights are incorporated into all international covenants and conventions. Treaties and instruments. They are also inseparable parts of various regional arrangements, especially from Africa and Europe. Rights to nationality, birth registration, protection from deprivation of liberty, works/livelihoods, and return home when asylum seekers choose to are very basic human rights that are applicable for not only asylum seekers, refugees, and displaced people, but all human beings too and thus are an indispensable part of universal human rights gamut. To emphasise this, the UN Secretary General in 2020 called upon action to ensure the protection of people in conflicts and peacetimes. This is at the center of everything the UNHCR does and was one of the calls the UN Secretary General made at the 43rd council of the Human Rights Council meeting.

The UNHCR works with different mechanisms to ensure the rights of refugees, asylum seekers, and displaced and stateless people are protected as the organisation cannot alone do it and, therefore, work with these mechanisms in various ways—bilaterally, multilaterally, at national, regional and global levels. Areas they focus on to ensure there are improvements or gaps are addressed as follows: to make sure refugees are protected



against expulsion and forced return to a place where their life and liberty are in danger, they are not arbitrarily detained just because they have been to a place as refugees, threats to their life, liberty, and physical security are addressed, they are entitled to universal birth registration that is necessary to secure their identity, i.e., the dignity which cannot be achieved without this, and people are prevented from being rendered stateless. Moreover, states accede to conventions related to refugees and statelessness issues. These are some of the key areas the UNHCR works very closely with human rights mechanisms at various levels. The Universal Periodic Review (UPR) process is very important in their efforts as it helps them engage, collaborate and share information with all actors, help states implement the recommendations they have committed to, and bring the real situation of protecting refugees, asylum seekers, stateless people to the attention of states and all other actors.

He mentioned that these are the mechanisms the UNHCR continues to work with, engage, and works towards collectively improving the protection space and ensuring dignity for these people. It is their right while they are in refuge to return home or find

some other solution. The key areas the UNHCR continues to focus on include advocacy and dialogue with the host and other states and partnerships they use for addressing the situation of asylum seekers, refugees, and stateless people in different places. The organisation continues to build capacities and raise awareness among various entities, enabling them to fulfill commitment and obligations toward protecting forcibly displaced, stateless people, asylum seekers, refugees, etc. At times, they also seek and mobilise urgent actions to protect individuals. When Mr. Wostey was working in Bulgaria, they maintained their engagement and helped mobilise regional human rights bodies to prevent the extradition of asylum seekers and refugees without due process to places where their life and liberty would be in danger. The UNHCR was working very closely with European human rights mechanisms. These are some interventions they rely on while collaborating with partners. When the UNHCR engages, policies, national laws, and practices improve and change, coordination increases and improves among different UN agencies and their partners, refugees and asylum seekers are included in national plans, policies, legislations, capacities of various authorities, and other structures in a country, e.g., civil society and others, are improved, which are more sensitive towards refugees, protection and the overall situation experiences improvement.

Mr. Wostey, at this point, brought examples of five countries to show what happened in those countries where the UNHCR engaged with partners. Spain was the first example; the problem was that trafficking victims were systematically denied recognition. As part of their engagement through the human rights mechanism, eventually, the national government amended its laws and policies. Another example is from South Korea. There were problems in registering children born to foreign parents in that country. The UNHCR engaged with the authorities, partners, and the government and announced there would be new laws to provide for birth registration of children born to parents of foreign nationalities. The organisation also works with the World Bank, which provides development support for host communities and refugees in large-scale operations. For example, in Ethiopia, donors who form part of the World Bank's response to providing the funding have supported recommendations made for also addressing birth registration problems facing refugee children in the country. Thus, Ethiopia has supported recommendations made in the UPR process to ensure the registration of refugee children from single parents. In Bulgaria, for matters related to statelessness and accessing the territory, bad practices along borders, the UNHCR has engaged, there have been supportive recommendations, and authorities have committed to implement these. In Austria, with engagement through the human rights mechanism, they now

have universities offering tertiary education to refugees or people who had temporary protection or other forms of international protection for entering the country. Scholarships are awarded, ensuring access to education for people in need of international protection. These are some important examples; there is a list of various good practices, which may not be many but are definitely very good and are publicly available. He concluded the presentation by saying refugee rights are also part of human rights.



Ms. Aroma Dutta, MP

Hon'ble Member of Parliament, Government of the People's Republic of Bangladesh

Ms. Aroma Dutta, MP, Hon'ble Member of Parliament, Government of the People's Republic of Bangladesh, noted that the issues discussed in the seminar are crucial. She mentioned that Bangladesh as a state emerged fighting against violations of fundamental rights. The country has been a strong advocate for establishing a right-based nation. She paid her deepest tribute to the Father of the Nation Bangabandhu Sheikh Mujibur Rahman, the three million martyrs of Bangladesh's liberation war, and the women who had made supreme sacrifices for the independence of the country.

Ms. Dutta praised Prime Minister Sheikh Hasina for her relentless work to ensure equality and justice in society. Here she mentioned the contribution of the Father of the Nation in preparing Bangladesh's first constitution, which was introduced to establish a rights-based society. Now the unfinished tasks of the Father of the Nation are being carried out by his able daughter Prime Minister Sheikh Hasina. With regard to the issue of the beauty of diversity, Ms. Dutta mentioned that Bangladesh has always been a country

with unity in diversity since people of every religion lived and co-existed with dignity, honor, and rights.

Ms. Dutta referred to the laws that were enacted during the time when the speaker of House of the Nation, People's Republic of Bangladesh, Dr. Shirin Sharmin Chaudhury, was the Minister of Women and Children's Affairs and the current chairman of NHRC, Ms. Nasima Begum was the secretary. She also reflected upon the rights of ethnic minority groups and highlighted the challenges of bringing them to the mainstream. She mentioned the commendable role of the MPs, speaker of the House of the Nation, and the Prime Minister of Bangladesh in protecting the rights of invisible communities and bringing them into mainstream society.

She then talked about the "Surokkha App," which was created to provide Covid-19 vaccines that include people from all strata of the society. The Prime Minister of Bangladesh has made sure that not a single person should be left behind from vaccination as the world is still fighting against the pandemic. She also highlighted the initiatives to bring people of the third gender into mainstream society by giving them jobs and ensuring their legal status. Initiatives have been taken to protect the rights of sex workers. In brief, everyone is working to ensure rights for the people of invisible communities. To emphasise mainstreaming of the members of the third-gender community, Ms. Dutta referred to an event in the House of the Nation, last December, where transgender people also got an opportunity to participate. This is a demonstration of providing dignity and honor to transgender people.

Ms. Dutta reminded the audience about Bangabandhu's speech at the UNGA in 1974, which she compared with the Magna Carta. In that speech, Bangabandhu mentioned that "there are two groups of people in the world: oppressor and oppressed, and I am in the group of oppressed". He also took a position against the proliferation of nuclear weapons. In the presence of world leaders at the UNGA, urged all to stop fighting over nuclear weapons. In today's world, the global nuclear community is also afraid of the accidental use of nuclear weapons.



There is the United Nations to provide security for all, and if it fails to provide security, then existence, dignity, and equal justice could be managed in a home-grown way as the country did not import the core values from abroad. Bangabandhu and his able daughter Prime Minister Sheikh Hasina, have taken into consideration the rights and needs of each individual. Still, there is something to do, and the government is doing it in phases. It is important to ensure rights to all, including slum-dwellers, climate refugees, and people of ethnic and religious minority groups; bringing those into the system is a challenge the country must deal with. Ms. Dutta argued that there is no problem in terms of policy, rather the challenge is how to make the system more human rights friendly and view people from a humanitarian perspective.

OPEN DISCUSSION

Mr. Raihan Ahamed, student, Department of Sociology, University of Dhaka, asked the meaning of the word ‘expensive’ referring to remarks by Ms. Nasima Begum where she said human rights are expansive in nature. He requested her to elaborate a bit.



Ms. Sumaiya Tabassum Faiza, student, Department of Law, North South University, asked that in the 21st century, if people had to recognise human rights from scratch, would it be different from the existing recognised ones?

Md. Marufur Rahman Khan, student, Department of Peace and Conflict Studies, University of Dhaka, asked Shubhash Wostey regarding ensuring the human rights of the Rohingyas in Bhasan Char. He mentioned that Human Rights Watch has dubbed Bhasan Char “an Island Jail in the Middle of the Sea “. Therefore, he wanted to know how human rights would be ensured for Rohingyas there.





Ms. Zubaida Faruqi, student, Department of Peace and Conflict Studies, University of Dhaka, referred to the “Carbis Bay G7 Summit Communiqué” of June 2021, where it was mentioned that leaders of the G7 would be particularly working on ensuring human rights across the world. However, time and again, the world has seen no intervention in ensuring the rights of the Rohingyas. There remains an anomaly between statements and actions. She requested Huma Khan to shed light on

the issue. She also asked Dr. Mizanur Rahman about controversies regarding the trial of Bangladeshi war criminals of 1971. She mentioned that Human Rights Watch pointed out the tribunal lacked basic fair trial standards, which was a violation of human rights. She asked how to ensure one person’s right to justice without prohibiting others’ rights.

Ms. Tasnim Nusrat Reza, student, Department of Law, University of Dhaka, stated that the right to self-determination is one of the rights people across the world aspire to achieve. Bangladesh is one of the countries that successfully achieved the right in 1971. However, the Digital Security Act (DSA) has criminalised free speech on social media and other platforms. Therefore, she asked, when freedom of expression is criminalised, how that upholds the essence of self-determination.



Ms. Salsabil Chowdhury said the Constituent Assembly of Bangladesh faced a serious debate while it was drafting the Constitution regarding the inclusion of economic, social, and cultural (ESC) rights. However, they ultimately included ESC rights considering their “progressive realisation” contingent upon the availability of state resources. He

wanted to know when ESC rights would be recognised as fundamental rights, not just social welfare goals. He also raised the question of whether the right time is yet to come, even in the 21st century.

Mr. Asif Munier, independent consultant, opined it would be good to mainstream human rights education and new technology in the society, both through formal and informal education. He wanted Huma Khan and Dr. Mizanur Rahman to elaborate on the issue.



Mr. Ahmed Ragib Chowdhury asked whether the proliferation of human rights to regulate state conduct be halted due to alleged gross violation of human rights and consequential humanitarian intervention being used by states to violate customary international law, principles of prohibition of the use of force, and nonintervention. For example, the Russian invasion of Ukraine on account of the alleged genocidal elements in the Donetsk and Luhansk regions.

Mr. Festus Ikechukwu Okpeh, student, Department of Law, University of Dhaka, highlighted the rights of transgender people. He referred to the point raised by Aroma Dutta about the Bangladesh government recognising their rights. It was indeed a landmark decision by the government to identify transgender officially as the third gender. However, in reality, the recognition had not been implemented with the corresponding rights. Homosexuality is illegal under Bangladeshi law, inherited from the British Indian Government's Section 377 of 1860. According to the law, punishment for homosexuals is up to life imprisonment, and thus, it is dangerous for those who identify



as homosexuals. He gave examples of India and Nepal where in a historic judgment, Section 377 was decriminalised. He asked about how to address the inconsistencies and materialise protection of human rights of the transgender in Bangladesh.



Md. Mostafa Hossain, Assistant Professor, Department of Law, BRAC University, said that when the crisis in Sudan or in Libya was arising, the UN Security Council referred the matter to the International Criminal Court (ICC) stating that widespread human rights violation was committed. However, in the case of Myanmar, despite having the UN's own investigation report that the Myanmar military committed crimes against humanity including genocide, the UN did nothing at all. Rather in November 2019, the Gambia filed a case at the International Court of Justice (ICJ) against Myanmar for failing to prevent or punish genocide against Rohingya. Therefore, he questioned, in a world, where all human rights violations are not addressed objectively, how far one can argue the proper implementation of human rights as it will remain as rhetoric.

Md. Toslim Bhuiyan Prantik, student, Department of Law, North South University, said that the world had seen many attacks which were initiated by first-world countries in the name of humanitarian intervention. He asked whether it would be possible to reduce their bias in regard to humanitarian intervention.





Dr. Mahfuz Kabir, Research Director, BIISS, highlighted human rights violations by businesses in the name of growth and production. He pointed out the environmental damage they inflict that leads to climate change by not adopting sustainable climate-saving technologies. Besides, fire hazards in different places like launches or factories show that authorities are not complying with the standards. He wanted to know the mechanism under the UN system to curb these kinds of human rights violations.

RESPONSES BY THE SPEAKERS

Dr. Shirin Sharmin Chaudhury, MP

Hon'ble Speaker, House of the Nation, People's Republic of Bangladesh



Dr. Shirin Sharmin Chaudhury, MP, on recognising the ESC rights, said that there are ample examples of judgments of the Supreme Court litigations where ESC rights are being recognised. These rights are now enforced through ‘progressive interpretation’ of the “right to life”. For instance, in a landmark Indian case, it was observed that for residents of hilly areas, access to roads is access to life itself. Therefore, such access for them is an inbuilt component of the constitutionally guaranteed right to life, and any denial in this regard thereof would be synonymous with violating that right. She said it is a special situation and an exceptional case; otherwise, without having access to roads, the people would not be able to commute and collect basic necessities. Hence, the Court recognised this would be part of the right to life.

Similarly, some cases in Bangladesh recognised the issue as well. It is being argued that the right to life is not only civil and political (CP) rights; rather, the scope is much wider where it includes ESC rights too. Here she referred to her thesis on “The Right to Life” where she argued that it was a common misunderstanding that ESC rights were strictly ‘positive rights’ requiring the state to undertake positive actions considering the availability of resources. Resource constraints are a good plea for the state in terms of non-fulfillment of ESC rights. However, recognition of CP rights requires the resources of states as well. Therefore, one cannot reject economic and social rights on the grounds of a lack of resources. She thinks it is more logical that it depends on the ability of states.

Ms. Nasima Begum, ndc

Chairman, National Human Rights Commission (NHRC), Bangladesh



Ms. Nasima Begum ndc, clarified that she used the word “expansive,” which means covering a wide area in terms of space or scope. Human rights are universal and worldwide. They cover almost every aspect of human activity, including civil, political, economic, social, and cultural rights. Hence, she used the word expansive.

Ms. Huma Khan

Senior Human Rights Advisor for the UN System



Ms. Huma Khan, on the issue of G7 leaders, particularly the US taking responsibility to ensure human rights, said the responsibility was not applicable to any particular country or leader. The very idea of giving that power to any particular country to ensure human rights is problematic. According to the UN Charter, all nation-states are equal. Therefore, they should all bear equal responsibility. She opined that it is necessary to change the attitude of looking upon one country.

On freedom of expression in digital space, she mentioned that Bangladesh is a party to the International Covenant on Civil and Political Rights (ICCPR), and freedom of expression is clearly enshrined there. Regulation of the digital space is important but at the same time, ensuring people can express themselves freely and responsibly is vital too. She opined that putting people behind bars is not certainly going to solve this problem.

Regarding business and human rights, she pointed out that there are guiding principles developed by the UN and endorsed by a number of member states. She talked about the UN Global Compact, which encourages businesses worldwide to adopt sustainable and socially responsible policies and report on their implementation. It is a principle-based framework for businesses, stating ten principles concerning human rights, labor, environment, and anti-corruption. Once businesses sign the pledge and are accused of certain violations, the UN has the right to take them to court. However, one limitation is that the pledge is still a voluntary one, and the UN has to motivate the corporations to subscribe to that.

Professor Dr. Mizanur Rahman

Director, BILIA and Former Chairman, NHRC, Bangladesh



Professor Dr. Mizanur Rahman, answering if that day was the starting point of human rights, would that be the same or different, said the answer was negative as a civilisation depends on inheritance from its predecessor. The Bill of Rights and Magna Carta of 1215 was not the rights of the common people. Even the French Declaration was termed the Declaration of the Rights of Man and of the Citizen. The term woman was never uttered. Later, the milestone document, the Universal Declaration of Human Rights, set out for the first time that fundamental human rights to be universally protected. Thus, there has been colossal development in human rights over the years.

Regarding the trial of war criminals, he said that it is a known fact that the Nuremberg Trials, or the Tokyo Trials to a great extent, were victor's justice. Therefore, the main concern of Human Rights Watch and Amnesty International was regarding the due process of law, fairness of justice, right to appeal, etc. All these were incorporated into the International War Crimes Tribunal of Bangladesh.

On the criminalisation of freedom of expression, he said that the issue is critical and delicate. Some things have to be left to the judiciary to interpret and come up with their own observations in concrete situations, for instance, incitement to disorder, breach of law, order, and peace in the society. He gave an example from 1899: the case between France and the US regarding the extradition of a member of a political party. The court observed that political offenses were not excluded from extradition. Anarchists are enemies of civilisation. Similarly, if one is inciting, s/he is the enemy whose liberty needs to be curtailed, and that is what the judiciary has done. However, he opined that it should be based on the objective ground rather than the subjective satisfaction of the decision-maker.

About recognising ESC rights, he opined it is long overdue that Bangladesh recognises some of these rights as fundamental rights. However, it is true that even without formal recognition, Prime Minister Sheikh Hasina is ensuring the rights to education, housing, and so on. Therefore, it is high time the government recognised the ESC rights as basic rights of citizens of Bangladesh. Regarding human rights education and technological development, he commented this is a continuous process. It is necessary to be educated and informed about how technological advancement affects human rights. This progress inevitably has profound implications for the human rights framework. Technology can help move the human rights agenda forward but, at the same time, has the capacity to undermine efforts. These challenges need to be understood from a proper perspective so that people do not become subservient to technology. Besides, there is a need to ensure that technologies are regulated by humans only. In this regard, training, education, and awareness are required.

On humanitarian intervention being used by states to violate customary international law, he mentioned Article 2 (4) of the UN Charter, which prohibits UN member states from using force directed against the territorial integrity or political independence of another state. It is the basic norm of international law. However, the Indian intervention in Bangladesh in 1971 was the first classical example of legitimate humanitarian intervention. In regards to recent developments in Europe, some use the word invasion of Ukraine, but Russia uses the term "Special Military Operation". The past

cannot be forgotten what led to the situation. The EU totally neglected the Minsk Protocol of 2014. According to Russia, noncompliance with that protocol and the genocidal acts of ultra-nationalist forces in Ukraine led Russia to humanitarian intervention. He stated that international law would debate in the future whether this could get the recognition of legitimate humanitarian intervention.

Answering the question on the third gender, he said the topic was a delicate one. There has to be consistency between how life is going and how the law is accommodating the changes in life. If the law precedes too much beyond life, there will be a rupture. Even 20 years back, the topic of the third gender was taboo. But the Bangladesh government has legally recognised them. However, the topic of the sexual orientation of an individual has a relation with the religious way of life followed by the overwhelming majority of people of this country. He opined that no government would venture to do something which goes against the religious sentiment of the overwhelming majority of the people. On violation of human rights by businesses, he said that corporate social responsibility is vital; nevertheless, businesses are there to make a profit. He recalled his time as the chairman of the National Human Rights Commission of Bangladesh when he insisted that “corporate social responsibility” should be termed as “corporate human rights” responsibility. He requested everyone to use the term as well.

Mr. Shubhash Wostey
Senior Protection Officer, UNHCR



Mr. Shubhash Wostey, while answering the question on ensuring the rights of the Rohingyas in Bhasan Char, said that according to the UNHCR, the rights of refugees do not change based on location as those are fundamental rights. He informed the audience about the signing of the Memorandum of Understanding (MoU) between the

Bangladesh government and the UN, and the UNHCR relating to Bhasan Char in October 2021. It was signed by the UNHCR on behalf of the UN agencies working on the Rohingya response in Bangladesh. It establishes a common protection and policy framework for the humanitarian response to the Rohingya refugees on the island. It allows for close cooperation between the government and the UN on services and activities to benefit the increasing number of Rohingyas living there, covering key areas of protection, education, skills training, livelihoods, and health, which will help them lead decent lives and better prepare for sustainable return to Myanmar in the future. The UN response will build upon and complement the humanitarian assistance so far provided by Bangladeshi NGOs on the island. The UNHCR is there to support the government to make sure that refugee rights are ensured properly.

CONCLUDING REMARKS



Ambassador Kazi Imtiaz Hossain, PAA

Chairman, Bangladesh Institute of International and Strategic Studies (BISS)

Ambassador Kazi Imtiaz Hossain, PAA, Chairman, BISS, expressed his heartfelt gratitude to the distinguished speakers of the seminar for their excellent, insightful, and enlightening speeches. He extended his special thanks to the Special Guest and Chief Guest for gracing the programme with their presence. He thanked all the learned participants for their encouraging active participation and BISS officers and staff for their hard work to make the programme a success.





Hybrid Seminar on Human Rights in the 21st Century: Rhetoric and Reality





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