



EAST WEST UNIVERSITY

DISSERTATION

ON

**RACIAL DISCRIMINATION IN BANGLADESH: AN
ANALYSIS OF THE IMPLEMENTATION OF ICERD
AND NATIONAL LAWS IN THE ELIMINATION OF
RACISM**

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CONSENT FORM

This Dissertation titled - **“Racial Discrimination in Bangladesh: An Analysis of the Implementation of ICERD and National Laws in the Elimination of Racism”** Prepared by **Mahima Aziz, ID: 2019-2-66-017** submitted to **Adity Rahman Shah, Senior Lecturer of Department of Law, East West University** for the fulfilment of the requirements of course 406 (Supervised Dissertation) for LL. B (Hons.) degree offered by the Department of Law, East West University is approved for submission.

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Signature of the Supervisor

Date: 13/1/2024

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DECLARATION

I, Mahima Aziz, bearing student ID: 2019-2-66-017, hereby declare that this thesis paper titled “Racial Discrimination in Bangladesh: An Analysis of the Implementation of ICERD and National Laws in the Elimination of Racism” was entirely prepared by me under the supervision of Adity Rahman Shah, Senior Lecturer, Department of Law, East West University for my graduation requirement. I further state that the content of this thesis paper has not been submitted or published by any journal, newspaper or article. The content and materials used for this thesis paper are acknowledged duly and recognized in the references and properly cited.

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LIST OF ABBREVIATION

ICERD	International Convention for The Elimination of All Forms of Racial Discrimination
UDHR	Universal Declaration of Human Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
CERD	Committee on the Elimination of Racial Discrimination
NHRC	National Human Rights Commission
CHT	Chittagong Hill Tracts
NGO	Non-Governmental Organization

Abstract

The right to live without being discriminated is regarded as a significant human right. Racism is one of the oldest problems and still emerging one in this world that discriminates against and violates people's most important human rights. In simple words, if a person is treated badly, harassed, bullied, humiliated or disadvantaged based on his race, colour, descent, or national or ethnic origin it is called racism or racial discrimination. However, from time to time many laws, treaties, and conventions have identified, defined & discussed Racial Discrimination and its elimination but it still exists as one of the major problems of today's world. Bangladesh is no different from this list of countries where people are facing racism. Every state has a responsibility to ensure the enforcement of this human right and to take steps that will reflect international obligations. The object of this paper is to identify how much racism exists in Bangladesh and what laws have been enunciated so far whether national or international. Moreover, this paper will identify the loopholes of the existing legal provisions and whether they reflect the international obligation of ensuring human rights regarding decreasing the rate of Racism in Bangladesh. To be specific this research will analyze the application of ICERD in Bangladesh, as well as the coherence between ICERD and our constitution.

Chapter 1

Introduction

1.1 Research Question

- How can ICERD effectively help eliminate Racial Discrimination in Bangladesh?
- How do the national laws of Bangladesh reflect the provisions of ICERD to eliminate Racial Discrimination?

1.2 Problem Statement & Background

In Bangladesh, Racial Discrimination lies in different forms and sectors. The types of Racial Discrimination that the people of Bangladesh face need to be identified and classified. Some of the selected groups of people exist in Bangladesh who are facing racial discrimination and are persecuted for a long period for their race, colour, descent, national or ethnic origin and it is not an easy task to eliminate all of it in the blink of an eye. It will require a concise plan, data, strategy, and proper enforcement of the law. The minor groups in Bangladesh are mostly the victims of Racial Discrimination. Bangladesh has a history of Racial Discrimination and till now it exists. However, in Bangladesh, there are domestic laws regarding the prevention of Racial Discrimination but still it lies in every sector such as health, education, politics etc. For instance, there are provisions in our constitution which ensure the equality of every inhabitant such as Article 27. Moreover, article 28 of the constitution is about non-discrimination, where it has been said that there will be no discrimination against a citizen on the grounds of religion, race, caste, sex or place of birth. This article is the most prominent legal provision in Bangladesh regarding Racial Discrimination also it gives power to the state to take special measures to prevent these discriminations. Article 28 of the constitution is a provision that ensures the equality of all citizens in employment without any kind of Racial Discrimination. Despite all these laws, there are still people who are facing Racism and are persecuted for their race, colour, descent, ethnicity etc. Dalit ('untouchable') community is the most persecuted group of people in Bangladesh for their caste. This is one of the significant cases of Racial Discrimination in Bangladesh. The Dalit community are considered the most disadvantaged people for they have their origin different from the mainstream population of Bangladesh. Apart from this the tribal/Indigenous ethnic community of

Bangladesh also faces racial discrimination as they have different origins or caste, culture, food, language etc. They have their origin different from the mainstream Bengalis and are highly discriminated against for their rights under the Bangladeshi constitution. Besides, the Biharis are also subject to Racial Discrimination in Bangladesh for their descent or national origin. After the independence of Bangladesh, they were not even recognized as Bangladeshi citizens for a long time. Also, there is the Gypsy (Bedey), the nomadic ethnic community, who face racial discrimination in Bangladesh and are deprived of their human rights for their ethnic origin and diversified culture. Apart from all these categories, people are also discriminated for their colour. Colourism is also another form of Racial Discrimination that lies in Bangladesh. To prevent Racial Discrimination, which is a basic Human Right, the strict enforcement of domestic law is very important. ICERD is the most significant international convention for the prevention of racial discrimination and Bangladesh ratified it. Bangladesh is one of the ratifying parties of ICERD. So, Bangladesh also has all the obligations as the other ratifying countries, which means Bangladesh has an international obligation to prevent racial discrimination by following the rules provided by ICERD articles. Every form of discrimination needs a special method to be prevented and that too keeping consistency with the provisions of ICERD. In this paper, we will analyze the interrelation of domestic laws and ICERD, as well as the abovementioned cases of racial discrimination in Bangladesh and their possible prevention by the application of ICERD in coherence with domestic laws.

1.3 Research Justification

Racial Discrimination is one of the most significant issues regarding people's rights in Bangladesh but it is less talked about. There are very few people who know about the international obligations of Bangladesh to prevent Racial Discrimination and their rights under the ICERD. The existence of Racism in Bangladesh is mostly ignored and this is affecting the right of the people. There have been very few works in the field of Racial Discrimination from the perspective of Bangladesh thus it is important to have a good understanding of this issue and identify the people who fall under this issue, the loopholes of law, the domestic legal provisions in light of the international legal obligations and the possible prevention of this problem.

1.4 Research Methodology

This study will be based on a qualitative method of research. Both primary and secondary sources will be used to complete this research. National and International Laws, Convention, Treaty, and Case Decisions regarding Racial Discrimination will be referred to as primary sources of this research. The information from secondary sources will be collected from national and international articles, news articles, news journals, online journals, books, websites, blogs and other reliable sources about racism and racial Discrimination. Moreover, the sources will be cited in the reference following the OSCOLA referencing system and given in the bibliography chronologically.

1.5 Research Objectives

The objectives of this research paper are-

- 1) To recognize Racism in Bangladesh
- 2) To identify the Victims & types of Racism in Bangladesh
- 3) To scrutinize the application and provision of ICERD in Bangladesh in eliminating racism
- 4) To observe the reflection of ICERD in existing legal provisions of Bangladesh
- 5) To analyze the fulfilment of legal obligation towards ensuring Human Rights

1.6 Scope & Limitations

Racial Discrimination is a broad area under international human rights law and it is not possible to understand everything about it in a limited period and from the perspective of only one country. This research paper mainly focuses on Racial Discrimination in Bangladesh and the application of ICERD in coherence with the national laws. From this article, it will be easy to understand the ratio of Racism in different fields from the perspective of Bangladesh. However, while conducting the research there were some limitations such as limited access to data, and limited access to international resources for which much information could not be included in this research. Moreover, due to the shortage of time, it would not be possible to conduct quantitative research besides qualitative research. The information of this research will be taken only from books, journals, articles & websites. As long as there was a limitation of time the information could not be properly gathered.

1.7 Chapter Allocation

In this paper, there will be five chapters. Chapter 1 will be the ‘Introduction’ where we will outline the issue of this research, which is identifying problems of Racial Discrimination in Bangladesh, the method & objectives of this research. In Chapter 2 we will have the definition and an introduction to Racial Discrimination, classify the categories of racism in Bangladesh, and how the rights of the people are affected. Chapter 3 will cover the topic ‘International Legal Framework of Eliminating Racial Discrimination in Bangladesh & State Responsibility’. In Chapter 4 we will analyze the national legal framework and current situation of Racial discrimination in Bangladesh in light of cases, reports and data. Finally, chapter 5 will cover the topic ‘Recommendation & Conclusion.’

1.8 Literature Review

Racial Discrimination is a crucial topic to discuss and many scholars & authors have discussed it and its possible prevention from a legal perspective. Many scholars have defined Racial Discrimination in light of convention, charter etc. Patrick Thornberry in his journal ‘Ethnic and Racial Studies’¹ has brought up the issue of the protection of minorities. In the 5th edition of Malcolm N. Shaw’s textbook on International Law, the writer has discussed Racial Discrimination under chapter 6 (The International Protection of Human Rights)². The writer stated that *“Apart from the overwhelming requirement of protection from physical attack upon their very existence as a group, groups need protection from discriminatory treatment as such”*³. Moreover, Fredricka Tabor & Pamela Dalton in their journal about- the way of racial discrimination in the workplace and its effect on employment satisfaction & security⁴, have discussed and analyzed Racial discrimination in the workplace and job security. In another study by Kwame Dixon called ‘Racial Discrimination and Human Rights in the Global Context: The International Convention on

¹ Patrick Thornberry, ‘Minority rights, human rights and international law’ (2010) 3, Ethnic and Racial Studies, 249-263, DOI: 10.1080/01419870.1980.9993303,

<<https://www.tandfonline.com/doi/abs/10.1080/01419870.1980.9993303?fbclid=>> accessed 13 September 2010

² Malcolm N. Shaw, International Law (5th edn, Cambridge University Press 2003),212

³ ibid

⁴ Tabor, F., & Dalton, P. ‘Perception of racial discrimination in the workplace and its impact on job satisfaction and job security’ (2021). Journal of Graduate Education Research, 2, 32 – 47.

<<https://scholarworks.harding.edu/cgi/viewcontent.cgi?article=1015&context=jger&fbclid=>>

the Elimination of all Forms of Discrimination'⁵ Racial Discrimination has been discussed in the concept of Human Rights and Human Rights instruments such as ICERD. Apart from this, Mr. Michael Parker Banton has made some major scholarly contributions to the issue of racial discrimination. In his book 'International Actions Against Racial Discrimination'⁶ he has mainly focused on the practical implementation of ICERD. As he was a member of the ICERD committee he was concerned to observe the procedures followed by the committee. A review and special measures by ICERD have been discussed in a study by Medes Malaihollo⁷. Moreover, in another study by Stephanie E. Berry the concept of bringing the religious minority under ICERD was brought up⁸. The instrument of ICERD is also discussed in a study by David Keane in his journal article⁹.

⁵ Kwame Dixon, 'Racial Discrimination and Human Rights in the Global Context: The International Convention on the Elimination of all Forms of Discrimination' (2010), 4,9 Sociology Compass

<<https://compass.onlinelibrary.wiley.com/doi/10.1111/j.1751-9020.2010.00315.x>> accessed 1 September 2010

⁶ M. Parker Banton, 'International action against racial discrimination' (published 1961, Oxford University Press, USA) <<https://libgen.is/book/index.php?md5=249CDE29C6648CB7A162ACAE695641CB>>

⁷ Medes Malaihollo, 'The International Convention on Elimination of All Forms of Racial Discrimination – Reviewing Special Measures under Contemporary International Law' (2017) 5 Groningen Journal of International Law <https://papers.ssrn.com/sol3/papers.cfmabstract_id=3054679> accessed 22 October 2017

⁸ S. E. Berry, 'Bringing muslim minorities within the international convention on the elimination of all forms of racial discrimination—Square Peg in a Round Hole?' (2011), 11 Human Rights Law Review, 423-450 <<https://academic.oup.com/hrlr/article-abstract/11/3/423/644699>> accessed 22 July 2011

⁹ David Keane, 'Mapping the International Convention on the Elimination of All Forms of Racial Discrimination as a Living Instrument' (2020), 20, 2 Human Rights Law Review, 236-268 <<https://academic.oup.com/hrlr/article/20/2/236/5858243>> accessed 17 June 2020,

Chapter 2

Conceptual Framework of Racial Discrimination in Bangladesh

2.1 Definition

Racial discrimination has been defined in Article 1 of ICERD. According to the definition of ICERD in Article 1, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.¹⁰

2.2 History of Racial Discrimination

The concept of Racism has a long history and it has been practiced for centuries. Humans were not divided into races for thousands of years but, they acknowledged individual differences and did not consider all people as equals, the idea of race did not fully emerge until the 16th-century Transatlantic Slave Trade¹¹. Although slavery had been used in the past, many people were concerned about its moral ramifications¹². It became a question if enslavement of human beings was acceptable or not¹³. In the 17th century “race” was discovered by the white Europeans & Americans as they required an explanation for slavery¹⁴.

2.3 Introduction of Racial Discrimination in Bangladesh

Racial Discrimination lies in every sector & every place of Bangladesh whether it is health, education, employment, politics or even voting rights. Racial Discrimination is a contravention of basic Human Rights. Bangladesh is a party to all the significant Human Rights instruments such as UDHR, ICERD, ICESCR, and ICCPR which provide provisions against racial

¹⁰ International Convention on The Elimination of All Forms of Racial Discrimination, Article 1

¹¹ Emmaline Soken-Huberty, “Who started racism? History, examples, ways to take action” Human Rights Careers <<https://www.humanrightscareers.com/issues/who-started-racism/?fbclid>>

¹² ibid

¹³ ibid

¹⁴ ibid

discrimination and ensure equal rights and opportunities. Thus, Bangladesh must ensure the human rights of every person living under its territory. Forms of Racial Discrimination can be different in each country. In Bangladesh, there are specifically some minor ethnic communities who are persecuted for their race, colour, national origin or ethnicity. These communities can be classified as the victims of racial discrimination in Bangladesh. The Dalit, Indigenous, Bihari and Bedey communities are some of the classified minor groups living in Bangladesh who face discrimination for their race, ethnic origin, their different linguistic, culture, religion etc. However, under the provisions of ICERD and existing legal provisions of Bangladesh, these minor people are entitled to all public and private rights on an equal footing as others without being racially discriminated. Their rights are protected under the constitution of Bangladesh.

2.4 Dalit Community

Dalits are a group of people who are traditionally known as the “Untouchable.” Dalits are a diverse group of people who speak many different languages and follow several religions. They are made up of several castes from all across South Asia.¹⁵ Historically Dalits are involved in some jobs that are not considered socially respectable or pure such as sweepers, cleaners, day laborers, butchers etc.¹⁶ For this reason, they have been discriminated against for a long period. The Dalit community and their basic Human Rights have not been well recognized since the independence of Bangladesh till now¹⁷. Although they have been here for ages but after the independence of Bangladesh some Dalits came here from different origins and places. They were mostly brought into this country to do the work that civilized society was unwilling to do. If we talk about the existence of Racial Discrimination in Bangladesh, Dalits will be the first ones to talk about known as the most persecuted group of people who are discriminated against and excluded from equal human rights. They are treated differently than the mainstream population of Bangladesh for their different caste, culture, language, religion etc. The Dalit community is culturally diversified than most of the people of

¹⁵ Dr. Ayesha Siddequa Daize, ‘Dalits Struggle to Change Livelihood Strategies against Caste-Based Discrimination: A Study in Urban Bangladesh’ (2018) 8, Social Change <<https://ypsa.org/ypsa/wp-content/uploads/2019/02/SOCIAL-CHANGE-Vol-1-No-1-2018.pdf>> accessed 2018

¹⁶ ibid

¹⁷ ibid

Bangladesh. Although there is no evident record about the Dalits but according to a study approximately 3.5-6.5 million, constituting 3-5% of the total population of Dalits live in Bangladesh¹⁸. They live in very small quarters provided by the city corporation which is below the standards of a good living life.¹⁹ Even after consisting such a amount of the population they live life in poverty, illiteracy, insecurity, social exclusion and deprivation.

2.4.1 Rights of the Dalit

The rights of the Dalit Community in Bangladesh have been guaranteed by the constitution and also under International Human Rights Laws. They are entitled to all the same rights on equal footing as the other citizens of Bangladesh. Moreover, they are entitled to get protection from the law and the right to justice. Under parts II and III, their rights have been discussed. Besides the constitutional right, the international human rights of the Dalits are protected by the provisions of ICERD to which Bangladesh is a ratifying party.

2.4.2 Exclusion of the Rights of Dalit

In Bangladesh, the rights of the Dalit are highly affected and excluded by Racial Discrimination such as follows-

- A. Education: The Dalits live below the poverty line, and most of them cannot afford education for their children. They have very limited access to education and a high rate of illiteracy. Moreover, they are humiliated in educational institutions because of the environment they come from and discriminated against for their caste from scholarships and similar opportunities. They feel insecure about the hatred they'll have to face for their race and diversified culture, language, and their lower profession²⁰.
- B. Public Employment: Dalits were mostly appointed for sweeping, cleaning, etc. for generations with a very low wage. Although they have the right to get equal opportunity to white collar jobs or public employment, in reality, they are considered to belong to a

¹⁸ Mohammad Sajjad Hossain, 'Multiple Deprivation and Social Exclusion of Dalit Communities in Bangladesh: A study on sweeper community' (2017) vol 6 & 7, Jagannath University Journal of Social Sciences <https://www.researchgate.net/publication/364890817_Multiple_Deprivations_Schooling_Experience_of_Dalit_Children_in_Bangladesh> accessed December 2017

¹⁹ ibid

²⁰ Supra Note 18

lower caste and are offered only the jobs of sweepers or cleaners and their children are also treated the same way for their caste.²¹

- C. Cultural and religious rights: Dalits have come to this sub-continent from different places and they have diversified cultures such as unique dress, language, festivals etc. However, they are often identified and face exclusion for performing or maintaining their own culture and for this reason they are forced to restrain from upholding their culture²². Also, they are differentiated based on their religion by the dominant religious group²³
- D. Healthcare facilities: Because of their low income and poverty the Dalits cannot afford proper medical treatment²⁴. Even in the hospitals they have to face humiliation or discrimination for their caste, they don't get priority over the other people in case of emergency medical needs²⁵. Being a minor, ethnic group or belonging to a different race they should get some special healthcare facilities which is positive discrimination, however in reality they don't get it.
- E. Political Rights: Dalits are entitled to the opportunity to participate in politics and as citizens, they also have voting rights. However, the actual scenario is that in our country no political participation of the Dalits is noticed. Not only that but in most cases, they are even excluded from their voting rights²⁶.
- F. Protection of the law and right to a fair trial: the Dalit community have to face hatred and violence for their lower caste and distinct identity. Although they are entitled to the protection of the law and the right to a fair trial, whenever they try to seek help, they get ignored and lack the opportunity to get justice or remedy²⁷.
- G. Housing Facility: The Dalit community lack housing facilities and civic amenities. The colonies that are allotted to them by Govt. does not have enough space to accommodate

²¹ Supra Note 18

²² Farzana Islam, 'Political Participation of Dalit Women in Dhaka City, Bangladesh, (IDSN, 3 July 2012) <https://idsn.org/wpcontent/uploads/user_folder/pdf/New_files/Bangladesh/Bangladesh_Dalit_women_Farzana_slam.pdf?fbclid> accessed 3 July 2012

²³ Ibid

²⁴ Supra Note 18

²⁵ Supra Note 22

²⁶ ibid

²⁷ Ibid

their families properly. Thus, they live in very inhumane conditions. Also, those colonies lacked proper service of water, electricity, gas etc.²⁸

2.5 Indigenous Community

The Indigenous community is one of the ethnic groups in Bangladesh. 27 ethnic minority groups are officially recognized in Bangladesh²⁹. The Indigenous or tribal groups live mostly in the north and southeast of the country and Chittagong Hill Tracts (southeastern Chattogram Division) of Bangladesh³⁰. The Indigenous groups of Bangladesh are namely Chakma, Marma, Garo, Santals, Khashia, Manipuri, Rakhain etc. They are of different ethnic origins and diversified cultures, languages, and religions from the mainstream population of the country. According to news reports, it has been brought up that ethnic minorities are facing vulnerable human rights violations in Bangladesh and an attack on such a community in Naogaon District has been reported³¹. The Indigenous group face discrimination for their race, colour, and ethnic origin in Bangladesh and are treated as if they are not a part of the country, they are aliens here. Their rights are guaranteed by the Constitution and International Human Right Laws are often violated. They are one of the most persecuted groups and victims of Racial Discrimination in Bangladesh.

2.5.1 Rights of the Indigenous

The Indigenous group are also entitled to the same rights as any other citizen of the country guaranteed by the constitution in Part II and III.

2.5.2 Violation of the Rights of Indigenous

The Indigenous group of Bangladesh faces grave violations of their rights ensured by national and international laws. Such as violation of rights to property, education, housing, health, protection of law, politics, cultural and religious freedom, profession etc.

²⁸ Supra Note 18

²⁹ Geoffrey Macdonald, 'The Challenges Facing Plainland Ethnic Groups in Bangladesh: Land, Dignity and Inclusion' (IRI, 4 February 2021) <<https://www.iri.org/resources/new-bangladesh-report-examines-needs-of-plainland-ethnic-groups/>> accessed 4 February 2021

³⁰ Ibid

³¹ Not Defined, 'Ethnic minorities in Bangladesh and their human rights' Daily Sun (Dhaka, 8 April 2019) <<https://www.daily-sun.com/post/383942/>> accessed 8 April 2019

Land grabbing is a common phenomenon among Indigenous people. It has been even reported in a news article that *“Bangladeshi minorities have been consistently denied their rights and evicted from their own land.”*³² Moreover, they have to face communal violence and all this is because of their race and distinct ethnic origin³³. Even though property rights apply to them like any other citizen of Bangladesh but in reality, their property right is grossly violated.

Access to education and higher education is restricted for most of the Indigenous people mostly because of poverty and their diversified linguistic nature. The ethnic community living in distant places have their language and there is no institution to educate them in their language. Thus, either they have to leave their culture and language or having no other option they choose to stay uneducated.

Many people in ethnic communities complain about their housing facilities. Due to poverty and lack of attention from the government, they are excluded from developed and hygienic housing with proper electricity, water and gas services³⁴.

Due to poverty and living in an unhygienic and unhealthy environment, they often face health problems and as they live in distant places where hospitals or medical centers are not enough, they lack proper healthcare³⁵.

The Indigenous group often faces harassment and attacks because of them being minors and belonging to different races. They complain that no proper action is taken against the offenders and that the police are biased against the mainstream population³⁶. Also, they have to face illegal & arbitrary arrest and detention. Their constitutional right to get the protection of the law is thus violated.

They are often forced to leave their culture and tradition, and cannot enjoy their religious festivals peacefully, even though it is their judicially enforceable constitutional right.

³² Mahadi Al Hasnat, ‘Religious and ethnic minorities are most persecuted in Bangladesh’ Dhaka Tribune (Dhaka, 28 December 2017) <<https://www.dhakatribune.com/bangladesh/laws-rights/134051/>> accessed 28 December 2017

³³ ibid

³⁴ Supra Note 29

³⁵ ibid

³⁶ ibid

Limited access to public employment is another discrimination that the Indigenous have to face because of their ethnicity.

2.6 The Bihari community of Bangladesh

In the separation of 1947, the Biharis moved to West Pakistan (Now Bangladesh) from Bihar and West Bengal. In the 1971 war, they supported East Pakistan and were living as refugees. However, after the independence, they could not move to Pakistan and continued to live in the refugee camps³⁷. Now the Biharis live in about 66 camps allotted by the government and live a deteriorated life³⁸. They are one of the groups of people who face racial discrimination due to their descent or national origin. They are treated differently from the mainstream population because of their different culture, language, national identity etc.³⁹ After the independence of Bangladesh for a long period, they were not even recognized as citizens of Bangladesh. They were known as a stateless person⁴⁰. However, in the case of *Abid Khan and others v. Government of Bangladesh and others* [2003] 55 DLR (HCD) 318⁴¹ the Supreme Court in its judgment established the citizenship and voting rights of the Biharis⁴². Even after that, most of the Biharis still did not get their citizenship. Their rights are grossly violated, their movements are restricted to some camps only, and their access to employment or public employment, health, education and politics is limited. Their basic human right under ICERD to be treated on an equal footing without being discriminated for national origin is thus violated.

³⁷ Khan, A. R. 'Gender and Diaspora: The Bihari Community in Bangladesh' (2015) NIDA Case Research Journal, 7(2), 84–96. Retrieved from <https://so04.tci-thaijo.org/index.php/NCRJ/article/view/44290> accessed 30 December 2015

³⁸ Elahee, S. M., 'The Livelihood Pattern and Plight of Bihari People: A Study on Bihari Camp at Khalishpur in Khulna City, Bangladesh' (March 9, 2013). Available at SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2230830 accessed 10 March 2013

³⁹ Kazi Fahmida Farzana, 'An Artificial Minority: The Stateless Biharis in Bangladesh' (2009) 29,223-235, Muslim Minority Affairs, <<https://www.tandfonline.com/doi/abs/10.1080/13602000902943682>> accessed 9 July 2009

⁴⁰ Arif, Md. Kamrul Hasan. "The Status of the Bihari Community in Bangladesh under Domestic and International Law" (2018) 25.4, 664-678, *International Journal on Minority and Group Rights* <<https://doi.org/10.1163/15718115-02503006>> accessed 20 November 2018

⁴¹ *Abid Khan & others vs Government of Bangladesh and others* [2001] available at <<https://www.refworld.org/docid/4a54bbcf0.html>>

⁴² Khalid Hussain, 'Biharis: On Becoming Citizens of Bangladesh' (Hurights Osaka, March 2016) <[https://www.hurights.or.jp/archives/focus/section3/2016/03/biharis-on-becoming-citizens-of-bangladesh.html?>](https://www.hurights.or.jp/archives/focus/section3/2016/03/biharis-on-becoming-citizens-of-bangladesh.html?) accessed March 2016

2.6.1 Rights of the Bihari Community

Biharis living in this country are a minor group of people from different national origins who are entitled to all the human rights like any other citizen of this country under the constitution, also under article 5 of ICERD⁴³.

2.6.2 Current situation of the Biharis and their Rights

The current situation of Biharis is not very good. They still have to face discrimination; their rights are still violated. The rights ensured by the constitution are not practised in the case of Biharis. According to a study, the Biharis are mostly uneducated and thus they do not have access to public employment or white-collar jobs, for them business is the only way to income⁴⁴. Their education rate is also extremely poor. It has been reported in a piece of international news that, *“About 94 per cent of the Biharis are illiterate, according to the Refugee and Migratory Movements Research Unit”*⁴⁵ and their social stigma has also been discussed. Their poverty is one of the reasons for their high rate of illiteracy⁴⁶. They do not even are involved in politics mostly because of their national origin⁴⁷. Apart from that the camps that they live in do not provide all the civic amenities they are entitled to and they live a miserable life there, where there are no proper medical centers for them.

2.7 The Bedey community

The Bedey community are one of the ethnic groups living in Bangladesh⁴⁸. Professionally they are involved with snake catching, snake games etc.⁴⁹ They mostly live in the river areas of the country, they live in boats and sail over the rivers, which is why they are called River Gypsy. They have their own culture and traditions which they prefer to follow and in Bangladesh, it

⁴³ The International Convention on The Elimination of All Forms of Racial Discrimination, Article 5

⁴⁴ Supra note 39.

⁴⁵ Bijoyeta Das and Khaled Hasan, 'In Pictures: Plight of Biharis in Bangladesh' Aljazeera (Doha, 26 March 2014) <<https://www.aljazeera.com/gallery/2014/3/26/in-pictures-plight-of-biharis-in-bangladesh/>> accessed 26 March 2014

⁴⁶ Supra note 39.

⁴⁷ Supra note 39.

⁴⁸ Md. Sl, Liza Md., Md. Hc, 'Lifestyle of the Nomadic River Gypsies and their Threat Narrative: A Tale of Two Villages in Bangladesh' (2019); 17(5): 555973. Int J Environ Sci Nat Res.

<<https://juniperpublishers.com/ijesnr/IJESNR.MS.ID.555973.php>> accessed March 14, 2019

⁴⁹ ibid

is also their constitutional right to be able to follow their own culture and at the same time live life with all the opportunities and basic human rights. However, they also face racial discrimination and violation of their rights.

2.7.1 Rights of the Bedey

Bedey people living in Bangladesh are entitled to all the constitutional rights guaranteed for the people of this country and also the international human right. Under the constitution and ICERD, they are entitled to the right to health, education, shelter, occupation, cultural freedom, protection, political participation etc.

2.7.2 Rights Violation of the Bedey

It has been reported that the Bedey or Nomads people are often subjected to human rights violations, primarily due to racial discrimination⁵⁰. It has been reported in a study that approximately 98% of them live below the poverty line⁵¹. Because of their diversified culture and occupation with snakes, they often face humiliation, hatred etc. and are forced to leave their tradition and occupation. They are vulnerable to attacks and lack protection from the law. They usually do not have voting rights or political participation⁵². The Bedey people are widely changing their customs, traditions, and professions due to this vulnerable situation in their lives.

⁵⁰ Prof. K. Shamsuddin Mahmood, 'Bede Community: The Victim of Urbanisation' The Daily Star (Dhaka, 29 Jan 2019) <<https://www.thedailystar.net/law-our-rights/news/bede-community-the-victims-urbanisation-1694062>> accessed 29 Jan 2019

⁵¹ Supravat Haldar, 'Bede Community of Bangladesh: A Socio-Legal Study' (2012) 3 ISSN 2218-2578, The Northern University Journal of Law

⁵² Ibid

Chapter 3

International Legal Framework for Eliminating Racial Discrimination in Bangladesh & State Obligation

3.1 Introduction

In the previous chapter, we have discussed the introduction of Racial Discrimination in Bangladesh, who are the victims of Racial Discrimination and how their rights are violated. In this chapter, we will analyze the international legal framework in Bangladesh to possibly eliminate Racial Discrimination and the state obligation.

3.2 International Laws

There are many international laws that identify racial discrimination and work towards ensuring its elimination. The United Nations has developed many treaties and conventions which prohibit racial discrimination and the UDHR is the very first and most recognizable amongst them although it does not have any binding effect. Article 2 of UDHR states, *“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”*⁵³ Apart from that the ISESCR recognises the educational right for all irrespective of their race or ethnic origin and states that education helps to grow understanding among all nations and racial or ethnic groups⁵⁴. ICCPR ensures the protection of the law with equal and equality for every person without being discriminated⁵⁵. However apart from all of these international laws, the most significant and specific international law against racial discrimination adopted by the United Nations is the ‘International Convention on the Elimination of All Forms of Racial Discrimination’ having a binding effect on the ratifying countries.

⁵³ Universal Declaration of Human Rights, Article 2

⁵⁴ International Covenant on Economic, Social and Cultural Rights (1966), Article 13

⁵⁵ International Covenant on Civil and Political Rights (1966), Article 26

3.3 Introduction to ICERD in Bangladesh

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is the only convention adopted by the United Nations that defines and identifies Racial Discrimination broadly and specifically. It was adopted on 21 December 1965 by the UN General Assembly Resolution and came into force on 4 January 1969⁵⁶. Among 183 ratifying countries, Bangladesh is one. On the 11th of June 1979, Bangladesh ratified to ICERD and became a party to that convention.

3.4 Understanding of ICERD (provisions/articles)

There are 25 Articles in the convention divided into 3 parts. In part I (Article 1-7) Racial Discrimination, forms of racial discrimination and victims of racial discrimination have been identified & defined, obligations of the state parties are specified, rights of people from the state parties are listed, and ways of fulfilling the responsibility of the state parties are specified⁵⁷. In part II (Article 8-16) the formation, the process of formation of the CERD Committee has been discussed, the duties of the committee and state parties towards the committee have been described, rules regarding the committee and state parties have been drafted and the motive of the committee has been specified⁵⁸. In part III (Article 17-25) accession, the procedure of accession, date of enforcement, reservation made by state parties, the procedure of denouncement by a state party, settlement of dispute regarding the application of this convention, request for revision of the convention and deposition of equally authentic language has been discussed⁵⁹. Article 1 is one of the key provisions of ICERD, from this article the groups are identified who are protected by this convention and on whom discrimination will be considered as racial discrimination also the grounds are specified on which discrimination cannot be made such as political, economic, social, cultural or any other field of public life, which also establishes the rights of them in these fields⁶⁰. Apart from that the general recommendations⁶¹ of ICERD also specify some groups who are

⁵⁶ The International Convention on The Elimination of All Forms of Racial Discrimination

⁵⁷ International Convention on the Elimination of All Forms of Racial Discrimination, Article 1-7

⁵⁸ Ibid, Article 8-16

⁵⁹ Ibid, Article 17-25

⁶⁰ Gay McDougall, 'International Convention on The Elimination of All forms of Racial Discrimination' (Audiovisual Library of International Law, 21 December 1965) <<https://legal.un.org/avl/ha/cerd/cerd.html?fbclid=>>

⁶¹ General Recommendations of ICERD

protected by the convention such as Indigenous persons (G.R 23), Women (G.R 25), Roma (G.R 27), Dalits (G.R 29), Non-Citizens including refugees (G.R 30), victims of religious discrimination (G.R 32) and African descendants (G.R 34) etc.⁶² Article 5 of the convention lists the rights under this Convention where there are a total of six rights, where under ‘other civil rights’ there are nine rights and under ‘Economic, social and cultural rights’ there are six rights⁶³. Moreover, article 6 separately discusses the right to a fair tribunal for acts against racial discrimination⁶⁴.

3.5 Reflection & Coherence of ICERD provisions in the National Laws of Bangladesh

The reflection of ICERD provisions can be seen in the existing legal provisions of our country. The articles of the constitution represent the provisions against discrimination, moreover, the Penal Code also provides punishment for acts that violate constitutional rights. Although in a broader sense, the existing legal provisions do reflect ICERD, however, if we analyze the legal provisions of Bangladesh, it does not strictly implement the laws provided by it. Such as the article in the constitution that prohibits racial discrimination is titled ‘**Discrimination on grounds of religion, etc.**’⁶⁵ and it forbids discrimination in general. Regarding race, colour, descent, or national or ethnic origin, there is no distinct legal provision that forbids discrimination. Moreover, there is no specific enactment of Law regarding the prevention of Racial Discrimination. However, there was a recommendation from the Law Commission to the Government regarding a draft law named the ‘**Elimination of Discrimination Act**’ which is still pending and not enacted. In this draft law, punishment for discrimination is provided and the list of classifications of discrimination is exhaustive in this draft law⁶⁶. To fulfil the commitment to ICERD, enactment of a separate Act like the draft act is a need at this time, an act which will specify the people or group of people who are suffering racial discrimination in Bangladesh and there should be strict punishment against the acts of discrimination like there is for other crimes. In contrast, it is important to have it to identify Racial Discrimination as a crime that violates Human Rights Law. Provisions of ICERD are

⁶² Gay McDougall, ‘International Convention on The Elimination of All forms of Racial Discrimination’ (Audiovisual Library of International Law, 21 December 1965) <<https://legal.un.org/avl/ha/cerd/cerd.html?fbclid=>>

⁶³ International Convention on the Elimination of All Forms of Racial Discrimination, Article 5

⁶⁴ Ibid, Article 6

⁶⁵ The Constitution of Bangladesh 1972, Art 28

⁶⁶ Mohammad Golam Sarwar, ‘Analysing the Draft Elimination of Discrimination Act’ The Daily Star (Dhaka, 20 June 2017) <<https://www.thedailystar.net/law-our-rights/law-analysis/analysing-the-draft-elimination-discrimination-act-1422682>> accessed 20 June 2017

subordinate to the existing legal provisions of Bangladesh or are being fulfilled by the implementation of constitutional rights. It has been questioned in a news article, *“What is the point of signing a human rights treaty if the treaty itself remains subordinate to the domestic law of a country?”*⁶⁷ which is a crucial question to understand the implementation of international law in Bangladesh. The existing legal provisions of Bangladesh were made before ratifying ICERD thus after ratifying the convention, no steps have been taken so far or no law has been enacted to fulfil the commitment under ICERD. Apart from that, there have been noticeably no ‘special measures’ taken so far for the elimination of Racial Discrimination that has been mentioned in ICERD⁶⁸. In ICERD punishment for racist acts has been mentioned⁶⁹ which in our penal law is absent specifically on the ground of racism. The existing legal provisions that were made before the ratification do not specifically reflect ICERD provisions, it only reflects it in a broader sense. However, if we talk about coherence then it can be said that those legal provisions do not have coherence with the ICERD provisions.

3.6 Violation of The Rights Under ICERD

The human rights against Racial Discrimination provided by ICERD have been discussed in Article 5 of the convention⁷⁰. From the discussion of Chapter 2, it can be said that those rights are yet not ensured for the victims of Racial Discrimination in Bangladesh.

3.7 State Obligation

Bangladesh under its constitution and also as a part of Global Family has an obligation to ensure all the human rights for the people living in this country. The constitutional guarantee is a strict law for establishing the rights of the people in light of International Law. By the application of Writ or PIL, the rights guaranteed in part III can be judicially enforceable⁷¹. Article 25 of the constitution establishes the State Responsibility towards international law.

⁶⁷ Kawser Ahmed, ‘Doubtful Commitment to Human Rights’ The Daily Star (Dhaka, 13 Dec 2016) <<https://www.thedailystar.net/law-our-rights/doubtful-commitment-human-rights-1329391>> accessed 13 Dec 2016

⁶⁸ International Convention on the Elimination of All Forms of Racial Discrimination, Art 1(4), 2(2)

⁶⁹ Ibid, Art 4

⁷⁰ Ibid, Art 5

⁷¹ The Constitution Bangladesh, 1972, Art 102

3.8 State Obligation Under ICERD

The ratifying countries of ICERD have an obligation under it to fulfil all the requirements to possibly eliminate Racial Discrimination. The obligation under ICERD creates a *Jus Cogens* or *Erga Omnes*, which means that it is a universal obligation that must be followed by all states⁷². Article 2 of the convention mentions the obligations of the ratifying state towards fulfilling the commitment under ICERD⁷³. There has been a mention of taking special measures for the protection and development of the victims of racial discrimination in the convention which also concludes as a state obligation⁷⁴. Moreover, under the convention, the states are obliged to condemn racial segregation and apartheid & all acts of such nature⁷⁵, condemn all promotions and organizations supporting the act of racial discrimination or superiority of one race over another⁷⁶, assure protection by the tribunal or other state institutions to everyone living in its jurisdiction⁷⁷, undertake to eliminate racial discrimination by adopting measures specific areas such as education, culture etc.⁷⁸ Ensuring the rights mentioned in the convention also falls under state obligation⁷⁹.

The ratifying state parties owe some obligation to ‘CERD’ (Committee on the Elimination of Racial Discrimination) to ensure the fulfillment of its commitment towards the convention. Article 9-11 of the convention specifies the State's obligation towards CERD. In compliance with the convention, the state parties are required to send an annual report to the committee in written form mentioning the measures taken by them to fulfill the commitment towards the convention and CERD will make General Recommendations based on those reports⁸⁰.

⁷² Medes Malaihillio, “The International Convention on Elimination of All Forms of Racial Discrimination – Reviewing Special Measures Under Contemporary International Law” (2017) 5, Groningen Journal of International Law <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3054679&fbclid> accessed 22 October 2017

⁷³ International Convention on the Elimination of All Forms of Racial Discrimination, Article 2

⁷⁴ Ibid, Art 1(4)

⁷⁵ Ibid, Art 3

⁷⁶ Ibid, Art 4

⁷⁷ Ibid, Art 6

⁷⁸ Ibid, Art 7

⁷⁹ Ibid, Art 5

⁸⁰ Ibid, Art 9

3.9 Conclusion

After analyzing the international legal framework, it can be concluded the existing legal provisions of Bangladesh do not fully comply with the provisions of the convention and the state obligations are not fulfilled.

Chapter 04

National Legal Framework, Its Implementation and Current Situation of Racial Discrimination in Bangladesh

4.1 Introduction

In the previous chapter, we analyzed the international legal framework of racial discrimination in Bangladesh in coherence with ICERD and its violation. In this chapter, we will discuss the national legal framework which creates rights and real-life incidents that establish the violation of those rights. Also, we will see the records and data regarding the position of racial discrimination in Bangladesh.

4.2 National Laws

In Bangladesh, there is no direct legal provision regarding Racial Discrimination however the constitution of Bangladesh prohibits discrimination on the grounds of race and ensures equality for all in Part III which is judicially enforceable⁸¹. Article 28 is the prominent legal provision regarding the elimination of racial discrimination in Bangladesh. In this article, discrimination against a citizen on grounds of religion, race, caste, sex or place of birth has been prohibited⁸². Moreover, article 27 ensures the equality of all citizens before the law⁸³. Under this part of the constitution all the rights of the ethnic community are protected such as the right to equal opportunity in public employment⁸⁴, protection of the law⁸⁵, life and personal liberty⁸⁶, home and correspondence⁸⁷, safeguard to arrest and detention⁸⁸, freedom of movement⁸⁹, speech⁹⁰, religion⁹¹, occupation⁹², right to property⁹³ etc. Apart from this part II of the constitution sets the fundamental

⁸¹ Constitution of Bangladesh 1972, Article 44

⁸² Ibid, Art 28

⁸³ Ibid, Art 27

⁸⁴ Ibid, Art 29

⁸⁵ Ibid, Art 31

⁸⁶ Ibid, Art 32

⁸⁷ Ibid, Art 43

⁸⁸ Ibid, Art 33

⁸⁹ Ibid, Art 36

⁹⁰ Ibid, Art 39

⁹¹ Ibid, Art 41

⁹² Ibid, Art 40

⁹³ Ibid, Art 42

principles of the state policy which although not judicially enforceable but is a guideline for making laws and interpreting the constitution⁹⁴. Under this part, the rights of the ‘Backward Section’ to be protected from exploitation have been recognized⁹⁵. Also, in Article 19 the equality of opportunity for all citizens has been ensured⁹⁶. Moreover, article 23A guarantees the development and preservation of the distinctive cultures of tribes, minor races, and ethnic communities⁹⁷. In the Penal Code of Bangladesh, there are provisions regarding offences relating to religion which protect the right of the ethnic community to peacefully enjoy their religion and impose punishment on anyone violating that right⁹⁸. The government has also enacted the Small Ethnic Communities Cultural Institutions Act, 2010⁹⁹ to protect the culture, religion, language and tradition of the ethnic communities of Bangladesh.

4.3 Incidents of Racial Discrimination in Bangladesh

In a study by Alida Binte Sadiq called “Human Rights Violation of the Ethnic Communities in Bangladesh: Allegations vs Realities”¹⁰⁰ there have been included some case studies regarding the discrimination faced by ethnic minorities discussed as follows-

A. Kalpana Chakma Abduction Case:

A young girl aged 23 years named Kalpana Chakma who was a Jumma Adivasi and also known as an Indigenous activist was abducted in 1996 from her home because of raising her voice against some members of political groups who were torturing the Jumma Adivasi people. Even after having her brother and one more as an eyewitness and further investigation, no trace of her was found. The case is still unsolved, remains a mystery and the perpetrators were not brought to justice¹⁰¹. This case is an example of the tortures that the Indigenous people have to face and that they do not have access to justice.

⁹⁴ Ibid, Art 8

⁹⁵ Ibid, Art14

⁹⁶ Ibid, Art 19

⁹⁷ Ibid, Art 23A

⁹⁸ The Penal Code, 1860, Section295-298

⁹⁹ Small Ethnic Communities Cultural Institutions Act, 2010

¹⁰⁰ Alida Saqi, ‘Human rights violations of the ethnic communities in Bangladesh: allegations v realities’ (Academia, 2019) < <https://www.academia.edu/44124873/>> accessed 2019

¹⁰¹ ibid

B. Romel Chakma Death Case:

Romel Chakma, a young Chakma Indigenous boy died while being in detention by the army personnel. He was detained based on the allegation that two cases were filed against him. He was tortured to death and admitted to the hospital where he died. Although his father went to NHRC and complained about the incident, he asked for justice and based on that complaint investigation was conducted. Still, no action could be taken since none of the army personnel responded. There was inconsistency between the response of the police and army personnel as the local police officer said there was no case filed against Romel Chakma. This incident is an example of a serious violation of Human Rights in Bangladesh of the Indigenous community.¹⁰²

C. Attack on Longadu Indigenous People:

There was a reported incident of attack by the Muslim Settler on the Indigenous people living in Longadu Upazila. They started this procession because of the death of a political member. The houses of the Indigenous people were burnt and looted. After filing a complaint to the army zone of Longadu a curfew was initiated which was also broken by the perpetrators. The most noticeable factor of this incident is all these acts were alleged and no case was filed against those attackers.¹⁰³

D. Attack on Santals:

There are several incidents of attack on Santal Adivasi. Such as the incident of Police firing the arms of Santals¹⁰⁴. Another incident of burning and looting their houses etc.¹⁰⁵

E. Bihari Women Jainab Bibi & Shamina Akhter:

Jainab Bibi, a Bihari woman lost her husband and all the male members of her house in the war of liberation of 1971 and was forcefully dispossessed of their house and land. Thus, having no other option, they had to start begging and had to survive through a miserable life¹⁰⁶. Shamina Akhter

¹⁰² ibid

¹⁰³ ibid

¹⁰⁴ ibid

¹⁰⁵ ibid

¹⁰⁶ Anisur Rahman Khan, 'Gender and Diaspora: The Bihari Community in Bangladesh' (2015) 7(2) NIDA Case Research Journal <<https://so04.tci-thaijo.org/index.php/NCRJ/article/view/44290/37036?fbclid>> accessed July-December 2015

was a Bihari Woman who was forcefully evicted from her house by a gang of Bengali armed forces¹⁰⁷.

4.4 Reports & Data Regarding Racial Discrimination in Bangladesh

There have been many reports and data/information which provide the standing of Racial Discrimination in Bangladesh and they are as follows-

An incident has been reported that, on December 16, 2014, a violent dispute over land ownership developed into vandalism of shops and a Buddhist temple, as well as the destruction of more than fifty Indigenous people's homes. An estimated 260 individuals along with their families had to evacuate¹⁰⁸. After the independence of Bangladesh till today, the Indigenous people are living in fear of being evicted and leaving their land rights¹⁰⁹. Apart from that, due to the continued inter-communal violence and the insurgency that lasted from 1973 to 1997, some 280,000 people are still displaced in CHT¹¹⁰. Regarding the Urdu-speaking Muslims or Biharis, it has been reported that, in 2000 more than 151,000 of them were forced to leave the country¹¹¹.

In a report of 2022 by the Bureau of Democracy, Human Rights and Labor, the violence and discrimination in racial and ethnic communities and on Indigenous people has been discussed in section 6¹¹². Here it has been stated that, by the NGOS there have been reported cases of racial discrimination, as well as the sufferings of the Dalit community in case of restriction of land rights, education, housing, employment etc.¹¹³ Multiple cases of violations against minor religious people that they have to go through because of their race or ethnicity have also been reported here¹¹⁴. In the case of the discrimination against the Bihari community, it has also been reported, that some Biharis voiced anxiety in September 2021 that government authorities would reject their official

¹⁰⁷ Ibid

¹⁰⁸ 'Violence, Land Grabbing And Discrimination: Why Minorities In Bangladesh Continue To Suffer From New And Protracted Displacement' (IDMC January 2015) <<https://www.internal-displacement.org/expert-opinion/violence-land-grabbing-and-discrimination-why-minorities-in-bangladesh-continue-to>> accessed January 2015

¹⁰⁹ Ibid

¹¹⁰ Ibid

¹¹¹ Ibid

¹¹² '2022 Country Reports on Human Rights Practices: Bangladesh' (U.S Department of State, 2022) <<https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/bangladesh/?fbclid>> Accessed 2022

¹¹³ Ibid

¹¹⁴ Ibid

status as Bangladeshis, seize their land, and enact laws compelling them to return to Pakistan¹¹⁵. Moreover, the rights violations of Indigenous people such as restriction to higher education, unemployment, attacks & arbitrary arrest or detention, land eviction, sexual harassment etc. are mentioned in this report¹¹⁶.

In a report by the World Bank on the Indigenous\tribal people's access to higher education the data regarding restriction of these communities in higher education has been found¹¹⁷. In this report, it has been mentioned that, according to an NGO Research and Development Collective research, Santal, Koch, and Mahalis had literacy rates of 22%, 17%, and 25%, respectively and about 20,000 children from tribal households could potentially benefit from school-age children; estimates place the population of children in the 11–15 age bracket at 300,000, of whom less than ¼ attend secondary school¹¹⁸.

Also, there has been conducted a study on the nutritional status of pre-school children within Dalit communities of Jessore city in Bangladesh which was conducted focusing on the health situation of Dalit children and some collected specific data regarding this issue can be found here¹¹⁹.

4.5 Analyzing the Reports & Data

From the data and information collected from different reports mentioned in 4.3, we can see the existence of Racial Discrimination which has been recognised methodically and reported systematically. From the analysis of these reports, it can be seen that there are certain classes of people in Bangladesh who face discrimination for their race, national or ethnic origin and we can also understand the ratio of discrimination against them in specific sectors such as religion, education, employment, land rights, housing etc.

¹¹⁵ Ibid

¹¹⁶ Ibid

¹¹⁷ Bangladesh - indigenous/tribal population and access to secondary schools (draft): indigenous people's plan: Indigenous people's plan (English) (The World Bank, 4 April 2004) <<https://documents1.worldbank.org/curated/en/627571467997887013/>> accessed 4 April 2004

¹¹⁸ Ibid

¹¹⁹ Akimul Islam, Md Tarek Hasan, Nazia Nawshad Lina, Fatema-Tuj-Johra, Shovon Al-Fuad, 'Assessment of Nutritional Status and Its Determinants Among Pre-School Children Within Dalit Communities of Jessore City in Bangladesh: A Cross-Sectional Study' (2018) 7(2), 65-70, International Journal of Nutrition and Food Sciences <<https://doi.org/10.11648/j.ijnfs.20180702.14>> accessed 2018

4.6 Initiatives of Govt. to Prevent Racial Discrimination

Although few, there have been some initiatives taken by the government to prevent Racial Discrimination. Such as the government has initiated a quota system for the Dalit community in public education institutions such as Dhaka University and also in public employment¹²⁰. This initiative secures their access to higher education and relief from poverty¹²¹. Moreover, the government has also taken steps to guarantee Indigenous children's primary education by building schools for them. for them¹²². Apart from that the prime minister has expressed her concern regarding the improvement of life standards for the Biharis considering this as their human right¹²³. It was also expressed by her, that the Govt. has plans for improving the life standards of the Biharis who have been suffering for a very long time in this country¹²⁴.

4.7 Comparison from International Aspects

Although the govt of Bangladesh has taken some initiatives to eliminate Racial Discrimination, however comparing it from an international aspect it still lags. There are no laws enacted so far in Bangladesh for the prevention and elimination of Racial discrimination. However, in 2018 Tunisia enacted a law for the prevention of racial discrimination called “*Organic Law 50-2018*” which also includes punishment for such acts¹²⁵. Moreover, Australia has also an act “*Racial Discrimination Act, 1975*” which has provisions specifically regarding racial discrimination¹²⁶. Apart from that, laws against racial profiling and discrimination have also been passed in Argentina, Colombia, Ireland, Mexico, South Africa, Spain, and Turkey¹²⁷. Thus, compared to

¹²⁰ Dr. Ayesha Siddequa Daize, ‘Dalits Struggle to Change Livelihood Strategies against Caste-Based Discrimination: A Study in Urban Bangladesh’ (2018) 8, Social Change <<https://ypsa.org/ypsa/wp-content/uploads/2019/02/SOCIAL-CHANGE-Vol-1-No-1-2018.pdf?fbclid>>

¹²¹ ibid

¹²²--- ‘Indigenous People in Bangladesh’ IWGIA <<https://www.iwgia.org/en/bangladesh.html>>

¹²³ UNB, ‘Govt. Plans to improve life of stranded Biharis in Bangladesh: PM’ The Business Standard (Dhaka, 6 March 2022) <<https://www.tbsnews.net/bangladesh/govt-plans-improve-life-stranded-biharis-bangladesh-pm-380686>> accessed 6 March 2022

¹²⁴ Ibid

¹²⁵ Omar Fassatoui, ‘Tunisia’s Law against Racial Discrimination: The Mixed Results of a Pioneering Legislation’ (Arab Reform Initiative, 11 February 2011) <<https://www.arab-reform.net/publication/tunisias-law-against-racial-discrimination-the-mixed-results-of-a-pioneering-legislation/>> accessed 11 February 2011

¹²⁶ Racial Discrimination Act, 1975

¹²⁷ United Nations, ‘International Decade for People of African Descent’ 2015-2024 <<https://www.un.org/en/observances/decade-people-african-descent/actions-taken>>

these countries Bangladesh have not taken any strict initiative in eliminating racial discrimination or penalizing such acts under which the victims can demand redress.

4.8 Conclusion

It can be concluded from the above analysis that; Bangladesh stands in a position of doubtful commitment towards ICERD and there is a strict violation of implementation of national laws which is why the cases abovementioned could happen.

Chapter 05

Recommendation & Conclusion

5.1 Findings

1. There are no Direct Statutory provisions in Bangladesh.
2. There is a Lack of active role of NHRC.
3. Inconsistency in the application of ICERD
4. Bangladesh holds a Doubtful commitment to International Human Rights Law.
5. No noticeable steps or initiatives were taken for the development of the racial discrimination victims.
6. The victims of Racial Discrimination are not properly aware of their rights.
7. Victims are less likely to get justice under the judiciary as there are no cases filed of Racial Discrimination issue.
8. The law enforcement is not likely to work actively for the Racial Discrimination victims.

5.2 Recommendations

1. Although it is never possible to wholly eliminate racial discrimination from the root as it has spread over the country and the mindset of the people of this country. However, to eliminate racial discrimination to some extent the idea of positive discrimination needs to be introduced¹²⁸. The idea of positive discrimination in Bangladesh has been discussed in the 28th Article of the Constitution. Positive Discrimination is the idea of giving extra advantages or opportunities to those in need or backward communities such as the ethnic community or people from different national origins etc. It creates discrimination in a positive way that ensures equality. This concept should be highly applied.
2. Apart from that, a Statutory Provision specifically defining Racism and penalising acts of such nature should be enacted under which the victims can complain and get redress.
3. Amendment of existing legal provisions is necessary, for example, the Penal Should include Racial Discrimination as a crime.

¹²⁸ Aranna Hossain Sakib, 'Positive Discrimination and Right to Equality in Bangladesh' (NILS, 11 November 2021) <<https://nilsbangladesh.org/positive-discrimination-and-right-to-equality-in-bangladesh/?fbclid>> accessed 11 November 2021

4. There should be a definition of racial discrimination in accordance with ICERD in our legal provision.
5. The Application of international laws should be monitored.
6. Strict implementation of the ICERD provisions is necessary.
7. There should be a committee, especially for the purpose of monitoring racial discrimination cases in Bangladesh and making progressive reports for CERD.

5.3 Conclusion

To conclude, in the light of this paper, it can be said that Racial Discrimination is one of the most historical issues of this country that curtails the Human Rights of people. Even after ratifying so many international instruments and most importantly ICERD, the problem of Racial Discrimination could still not be solved. There seems to be a lack of sincerity in taking racism as a serious problem or identifying it as an important issue in our country. The victims of Racial Discrimination are highly persecuted for their race, colour, national or ethnic origin. However, it is still not too late for the government to take the issue seriously and immediately enact a Law, especially regarding Racial Discrimination for the victims of it. Resolving this issue is very important for establishing the basic human rights for the people of this country.

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