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**ON**  
**Constitutional Rights of Dalit Community in Bangladesh: A Critical**  
**Study**

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## CONSENT FORM

The Dissertation titled “*Constitutional Rights of Dalit Community in Bangladesh: A Critical Study*” prepared by Sadia Iffat Mreedula, ID: 2017-2-66-027 submitted to Riad Mahmud, Senior Lecturer for the fulfillment 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:

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I am deeply grateful to my parents for their support, appreciation, encouragement and keen interest in my academic achievements.

## DECLARATION

I, Sadia Iffat Mreedula hereby declare that the monograph titled “*Constitutional Rights of Dalit Community in Bangladesh: A Critical Study*” submitted in fulfillment of the requirements for the LLB (Honours) Degreeem bodies the results of my own research activity pursued under the supervision of Mr. Riad Mahmud, Senior Lecturer, Department of Law, East West University

I further declare that this monograph is an original submission which is free from plagiarism and has not been submitted earlier partly or wholly to any other university or institution for any degree or diploma.

# **CONSTITUTIONAL RIGHTS OF DALIT COMMUNITY IN BANGLADESH: A CRITICAL STUDY**

## **ABSTRACT**

In Bangladesh, discrimination based on caste and community is by far the most widespread. This type of discrimination involves societal systems and practices that discriminate against, marginalize, and limit people based on communal identities such as caste, language, ethnicity etc. The Dalit community faces a wide range of deprivation and prejudice in a number of areas. Dalits in Bangladesh have long been denied a number of basic rights. The purpose of this study is to identify the Dalit Community's fundamental and human rights as provided by Bangladesh's constitution. The article then attempts to determine to what degrees the Dalit Community's rights are safeguarded in line with constitutional provisions. The study examines existing national legal frameworks that advocate for the protection of the rights of marginalized groups, such as Dalits. The study examines social and religious viewpoints to determine the amount of discrimination against Dalits. It depicts the whole scenario on the current situation of the Dalit community in Bangladesh, as well as the flaws in the current legal system.

**Key Words:** Dalit Community, Rights, Discrimination, Untouchable, Exclusion, Constitution

## LIST OF ABBREVIATIONS

BDERM	Bangladesh Dalit and Excluded Rights Movement
BHOP	Bangladesh Harijan Oaikko Parishod
DEWF	Dalit and Excluded Women's Federation
IDSN	International Dalit Solidarity Network
NHRC	National Human Rights Commission
NNMC	Network of Non mainstreamed and Marginalized Communities
RIB	Research Initiative Bangladesh

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## Chapter One

### Introduction

#### 1.1 Background of the Study:

There are various aspects of social discrimination and marginalization. It may be found in various forms and in variety of shapes. However, race and caste have always dominated the conversation on social discrimination and exclusion. Discrimination based on occupation and ethnicity is by far the most common in Bangladesh.<sup>1</sup> In Bangladesh, caste prejudice is mostly exhibited through occupational, economic, and descent-based identities, as well as colorism, which carries the stigma of racism.<sup>2</sup>

Bangladesh is a country with a Muslim majority population. The minor religion is counted for 11% of the total population, which includes various religions such as Hinduism, Christianity, Buddhism etc.<sup>3</sup> The Hindu population contributes for around ten percent of the overall population, with Dalit communities accounting for three to percent which is 5.5 to 6.5 million in numbers.

In Bangladesh, violation of fundamental rights guaranteed under the constitution are manifested in a variety of ways. This discrimination behaviour is concerned with social practices and structures, resulting to discriminate against, isolate, and deprive certain people based on community identities such as caste, language, and ethnicity. The Dalit Community are subject to a variety of types of deprivation and discrimination in multiple sectors. Dalits have historically been denied of various fundamental rights such as: right to education, the constitutional right to property, right to movement, right to equality before justice etc.<sup>4</sup> Institutional restrictions in Bangladesh's legal system, which are worsened by societal prejudices, obstruct the rights of Dalit Community severely. Despite the fundamental rights guaranteed by the constitution, Dalit citizens

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<sup>1</sup> Bangladeshi minority population comprises overlapping categories of religious minorities, indigenous people (Adibashis), and linguistic minorities. The South Asia Collective, 'South Asia State of Minorities Report: Mapping the Terrain' 88 (2016)  
<[https://www.researchgate.net/publication/311438092\\_South\\_Asia\\_State\\_of\\_Minorities\\_Report\\_2016\\_Mapping\\_the\\_Terrain](https://www.researchgate.net/publication/311438092_South_Asia_State_of_Minorities_Report_2016_Mapping_the_Terrain)> accessed 20 April 2022

<sup>2</sup> ibid at 87-89

<sup>3</sup> ibid at 95

<sup>4</sup> Rabeya Rowshan & Riaz Uddin Khan, 'Bringing Dalit Women to the Forefront: Realities and Challenges' (2016) p-10 <<https://idsn.org/wp-content/uploads/2018/12/Bringing-Dalit-Women-to-the-Forefront-Realities-and-Challenges2937.pdf>> accessed 20 April 2022

lack the social, political, and economic support which results into deprivation of constitutional rights. The representation of Dalits in local and national level remains disproportionately low due to discriminatory behaviour towards them.

This paper firstly focuses on identifying the constitutional rights of the Dalit Community. This paper also focuses on a theoretical examination of the infringement of those constitutional rights of Dalit Community. The purpose of this article is to determine the nature and scope of violation of constitutional and human rights against the Dalits.

### **1.2 Objective of the Research:**

- i. To identify the fundamental and human rights of the Dalit Community that are guaranteed under the constitution of Bangladesh.
- ii. To sort out to what extent the fundamental and human rights of the Dalit Community are protected in accordance with constitutional provision.

### **1.3 Research Questions:**

- i. What fundamental and human rights of the Dalit Community are guaranteed under the constitution of Bangladesh?
- ii. To what extent the fundamental and human rights of the Dalit Community guaranteed under the constitution are protected in Bangladesh?

#### **1.4 Methodology:**

The research approach used in this study was qualitative. The majority of the material was gathered from reliable secondary sources such as books, documents, laws and acts, government circulars, published articles, formal studies, and given key note papers at various seminars and workshops. For the context of this research, no quantitative methodologies other than doctrinal approaches were utilized.

#### **1.5 Scope and Limitation of the Study:**

Despite the terminology "Dalit community" has a broad definition under the notion of minority, this study exclusively refers to the dalit as a Bangladeshi minor community. The goal of this research is to determine the Dalit Community's constitutionally protected fundamental and human rights. The research also aims to determine the extent to which the rights of the Dalit are protected.

Several publications, research papers, and reports of government legislation had to be researched and reviewed in order to undertake the planned research. I was unable to perform adequate case studies in Bangladesh perspectives because to a lack of sufficient instances in this area of research in Bangladesh. It was also difficult to obtain appropriate materials from the library, bookshop, and shop owing to the current pandemic scenario.

#### **1.6 Literature Review:**

Many books, articles, and news stories have been written about the crisis of Dalit community in Bangladesh, but no specialized study dealing with constitutional and human rights has been identified. As a result, with the goal of identifying the knowledge gaps, this research is accomplished by the use of a foundation of relevant credible books, articles, newspapers, and constitutional publications.

American Bar Association Center for Human Rights stated in "Challenges for Dalits in South Asia's Legal Community" that "Dalits in Bangladesh experience social, political, and economic

discrimination, making the constitutionally guaranteed fundamental rights a distant reality.”<sup>5</sup> Nagorik Uddyog in their work “Access to Justice and Dalit Community in Bangladesh” stated that “In Bangladesh, Dalits and other minority groups experience a variety of complicated and continuous types of discrimination, including social, economic, political, religious, and cultural discrimination, which affects all areas of their personal and social lives. They face various forms of caste and socioeconomic discrimination, as well as violation of their rights and inaccessibility to justice.”<sup>6</sup> In her book “Paving the Way to Liberation,” Afsana Amin, a Bangladeshi writer, attempts to reveal the unseen challenges to obtaining human rights for Bangladesh's Dalit group in many fields.<sup>7</sup> Center for Human Rights and Global Justice and the International Human Rights Clinic in their work “Recasting Justice: Securing Dalit Rights in Nepal’s New Constitution” stated that “Every human being has the same basic value and is entitled to a dignified life. Assuring the Dalits' fundamental rights will significantly improve the country's potential to establish long-term stability and progressive democratic, economic, and social development.”<sup>8</sup>

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<sup>5</sup> American Bar Association Center for Human Rights, ‘Challenges for Dalits in South Asia’s Legal Community’ (2021), p- 3 <[https://www.americanbar.org/content/dam/aba/administrative/human\\_rights/justice-defenders/dalit-bangladesh-chapter-2.pdf](https://www.americanbar.org/content/dam/aba/administrative/human_rights/justice-defenders/dalit-bangladesh-chapter-2.pdf)> accessed 21 April 2022

<sup>6</sup> Nagorik Uddyog, ‘Access to Justice and Dalit Community in Bangladesh’ (2014), Ch- 8

<sup>7</sup> Afsana Amin, Muhammad Al Amin and Zakir Hossain; “Paving the Way to Liberation” <<https://www.misaal.ngo/wp-content/uploads/2016/11/Chapter-2-Bangladesh.pdf>> accessed 21 April 2022

<sup>8</sup> Center for Human Rights and the International Human Rights Clinic, ‘*Recasting Justice: Securing Dalit’s Rights in Nepal’s New Constitution*’ (New York: NYU School of Law, 2008)

## Chapter Two

### Demography of the Dalit Community

#### 2.1 Who are the Dalit People

Dalit is a term used to describe a group of people who have traditionally been considered as "untouchable." Dalits are a heterogeneous community made up of people from various castes who speak a variety of languages and follow a number of religions. "Dalit" is a Sanskrit word that meaning "ground," "suppressed," "crushed," or "broken to pieces."<sup>9</sup>

Dalits are the bottom caste in Hindu caste system, literally translated "broken people" or "oppressed" in Hindi. The caste system is divided into five categories: Brahmins (priests), Kshyatriyas (warriors), Vaisyas (farmers), Shudras (laborer-artisans), and Dalits, who are regarded so filthy that they are casteless.<sup>10</sup> Dalits go by a variety of names. They were dubbed Harijan, or God's children, by Mahatma Gandhi. They were referred to as Sudras in Hindu religious texts, and they were referred to as "depressed classes" by Ambedkar.<sup>11</sup>

They are officially referred to as "backward segment" by the Bangladeshi government.

They are "government fixed backward," which means they are entitled to certain protections and affirmative treatment. The name "Dalit" literally means "downtrodden" in Bangladeshi languages, and it signifies a race who are mistreated.<sup>12</sup> The Dalit, cobbler, and doms, a radical group that arose in Northern Bangladesh, utilized the phrase to affirm their identity as part of their fight for dignity and rights. It has evolved through time into a political concept connected with an ideology that promotes social reform toward a more equitable, just, and compassionate social order.

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<sup>9</sup> Jyotirao Phule, an Indian social reformer, used the term in the 19th century to describe the tyranny endured by the once-"untouchable" classes of the twice-born Hindus.

<sup>10</sup> Nakatani, T.N.D., 'State, Society and Displaced people in South Asia', Dhaka

<sup>11</sup> ibid

<sup>12</sup> Bangladesh Dalit and Excluded Rights Movement (BDERM) Network of Non mainstreamed and Marginalized Communities (NNMC) International Dalit Solidarity Network (IDSN), 'Social, economic and cultural status of Dalit community in Bangladesh' <<https://idsn.org/wp-content/uploads/2018/04/Bangladesh-CESR-review-IDSN-BDERM-NNMC-joint-report.pdf>> accessed 22 April 2022

A Dalit is a person who is not believed to be a member of human society, but rather someone who exists outside of it. The Dalits are the ones who have to do the most menial and demeaning professions. Dalits occasionally accomplish essential occupations, although this is rarely acknowledged by society. For individuals of upper castes, Dalits are considered as polluting. If a Hindu from a higher caste is touched by an untouchable or has a Dalit's shadow cast across them, they consider themselves unclean and must through a series of rituals to be cleaned.

The following dimensions describe the Dalit people and society in general<sup>13</sup>:

- Members of Dalit Community are held in low regard by the majority group since they have their own physiology, culture, dialect, and so on.
- Typically, the community has distinct traits. There are existing emotions of loyalty among the members of the group.
- They distinguish themselves as members of a group. It follows or increases via birth, but not voluntarily, which implies that the birth of a kid from a group serves a group member.
- The Dalit Community has strong bonds of brotherhood and generally believes in endogamy.
- They have a strong desire to maintain their language, culture, and solidarity, among other things.
- They usually desire to put it into practice the Dalit tradition. It matters that a group with a lesser tendency confronts extinction, but a group with a higher tendency can be preserved for a longer period of time.
- Dalits are socially backward, poverty stricken, and deprived.
- They do not have enough food, health care, housing, or clothing, thus their physiological and safety essentials aren't met. They also lack educational and career opportunities.

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<sup>13</sup> Rabeya Rowshan & Riaz Uddin Khan, 'Bringing Dalit Women to the Forefront: Realities and Challenges' (2016) p-10

## 2.2 Demographic Discussion

The following chart will help to understand the current social, political and economic status of the Dalit community in Bangladesh as key points such as population, earning, literacy rate, profession etc. has been mentioned in brief:

Key Point	Description
Population <sup>14</sup>	5.5 to 6.5 Million
Places Where Can be Found <sup>15</sup>	Railway, Municipalities, Hospitals, Educational Institutions, Offices, Mills, Market, Haats etc.
Literacy Rate <sup>16</sup>	Total Literacy Ratio: 56.61% Primary School: 36.4% Secondary Level: 12.5% Higher Secondary Level: 4.3% Never Received Any Education: 44.9%
Monthly Income <sup>17</sup>	More than 12 Thousand Taka: 11% 9 to 12 Thousand Taka: 12% 6 to 9 Thousand Taka: 17% 3 to 6 Thousand Taka: 42% of the Total Population Less than 3 Thousand Taka: 18%

<sup>14</sup> International Dalit Solidarity Network, <<https://idsn.org/countries/bangladesh/>> accessed 24 April 2022

<sup>15</sup> Professor Ainoon Naher, Abu Ala Mahmudul Hasan, 'Dalit Communities Living in Railway Colonies/Lands in Northern part of Bangladesh' (NNMC, Bangladesh & HEKS) p-4

<sup>16</sup> ibid at p-17

<sup>17</sup> Parvez, Altaf and Mazharul Islam, '*Bangladesher Dalit Somaj: Boishommyo, Bonchona O Osprisshota*' 'Dalit Communities in Bangladesh: Situation of Discrimination, Exclusion and Untouchability' (2014) <<https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5221&file=EnglishTranslation>> accessed 24 April 2022

Profession <sup>18</sup>	Street Sweeping/ Cleaning, Manual Scavenging, Dead Body Burying, Liquor Vending, Pig Rearing
Related Organizations <sup>19</sup>	<ul style="list-style-type: none"> <li>● Bangladesh Dalit and Excluded Rights Movement (BDREM)</li> <li>● Research Initiative Bangladesh (RIB)</li> <li>● Parittran</li> <li>● Bangladesh Harijan Oaikko Parishod (BHOP)</li> <li>● Ovijaan</li> <li>● Nagorik Uddyog</li> <li>● Dalit and Excluded Women's Federation (DEWF)</li> </ul>

<sup>18</sup> BDERM and Nagorik Uddyog, 'Situation of Dalits in Bangladesh' (2018) p-8

<sup>19</sup> American Bar Association Center for Human Rights, 'Challenges for Dalits in South Asia's Legal Community' (2021), p-8

## Chapter Three

### Constitutional Protection of the Marginalized Community

#### 3.1 Rights guaranteed under the Constitution

The ultimate law of the nation, the constitution of the People's Republic of Bangladesh, declares explicitly that all people of the homeland are equal and have equal rights.<sup>20</sup> This is one of the most fundamental protections against discrimination and exclusion. Bangladesh's constitution declares the country to be sovereign, socialist, secular, and democratic.<sup>21</sup> Every feature of the Republic is based on human rights, including the people's sovereign rights over the resources, secular emancipation, which prohibits discrimination on religious grounds, the socialist view of economic, social, and other rights, and participatory democracy through civil and political rights. The spirit of the constitution refers to a collection of rights that are referenced expressly or impliedly in the Preamble and Parts II and III of the Constitution.

The state is prohibited from discriminating against any citizen on the basis of religion, race, caste, sex, or place of birth, according to the constitution.<sup>22</sup> It further specifies that any restrictions on entry to any public or educational institution based on religion, race, caste, sex, or place of birth is completely prohibited.<sup>23</sup> The constitution directly mentioned provisions regarding rights of the “backward sections”. The constitution specifies that particular provisions be made in favor of women, children, and individuals from underprivileged backgrounds.<sup>24</sup> The constitution declares that all individuals have an equal opportunity to work in the government service, and that any discriminatory act in the public service employment on the basis of religion, race, caste, sex, or place of birth is unlawful.<sup>25</sup> It further said that implementing special privilege in favor of any

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<sup>20</sup> Article 27 of the Constitution of the People's Republic of Bangladesh

<sup>21</sup> Preamble of the Constitution of the People's Republic of Bangladesh

<sup>22</sup> *ibid* at Art. 28(1)

<sup>23</sup> *ibid* at Art. 28(3)

<sup>24</sup> *ibid* at Art. 28(4)

<sup>25</sup> *ibid* at Art. 29(1), 29(2)

backward section in order to ensure their appropriate representation in the Republic's service is lawful.<sup>26</sup> Although the constitution acknowledges "caste," it is unusual among constitutions in that it does not identify "Dalits" as a distinct group who need particular protection.

The Constituent Assembly drafted Bangladesh's first constitution, which prioritized socio-political impartiality. The constitution assembly recognized the right to equality for all persons, irrespective of religion, color, ethnicity, gender, or place of origin. Equal access to public services was also stated.<sup>27</sup> The constituent assembly recognized the need of establishing positive discrimination for the betterment of the marginalized population. "Women, religious minorities and ethnic minorities" were first considered the most eligible for those special privileges. Article 28(4) of the 1972 constitution was the first in the book to require the state to make "particular arrangements in favor of women or children, or for the progress of any backward segment of people." Following that, article 29(3) allowed "any backward segment of people to acquire their sufficient representation" to get special privileges. The constitution made by the constituent assembly, on the other hand, added positive discrimination for people who have experienced long-term hardship, marginalization, and exclusion.<sup>28</sup> The constituent assembly initiated measures to repair a post-colonial nation's deep-seated socioeconomic marginalization.

Bangladesh constitution has an influence on the discussion of human rights. The constitution of Bangladesh mentions fundamental rights of the citizens such as the right to equality and equal protection of law, right to freedom,<sup>29</sup> right against exploitation,<sup>30</sup> right to religious liberty,<sup>31</sup> cultural and educational rights,<sup>32</sup> the protection of minorities' interests,<sup>33</sup> and positive discrimination against backward sections. The notion of untouchability and any sort of

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<sup>26</sup> Art. 29(3) of the Constitution of the People's Republic of Bangladesh

<sup>27</sup> Jashim Ali Chowdhury, 'How Bangladesh can approach constitutional equality' (Whiteboard, 17 December 2021) <<https://whiteboardmagazine.com/2691/how-bangladesh-can-approach-constitutional-equality/>> accessed 12 May 2022

<sup>28</sup> *ibid*

<sup>29</sup> *ibid* at Art. 36,37,38,39

<sup>30</sup> *ibid* at Art. 28,29

<sup>31</sup> *ibid* at Art. 41

<sup>32</sup> *ibid* at Art. 17, 23

<sup>33</sup> *ibid* at Art. 23(A)

discrimination has been banned by the constitution, and its practice in any form is expressly prohibited.<sup>34</sup>

Notwithstanding the provisions outlined above, most marginalized groups, such as Hindus, Biharis, and indigenous peoples, have not experienced the advantages of these rights, with the exception of judicial intervention in rare circumstances.<sup>35</sup> In addition, despite constitutional protections of the freedom to own property, Hindus have long been denied land ownership by legislative actions.<sup>36</sup> The Dalit Community faces discrimination from the majority, which is incorporated in many of the nation's cultural practices, as well as interpersonal racism, making them one of the most marginalized communities.<sup>37</sup> These inequalities are compounded by additional concerns, making the Dalit Community the most vulnerable members of the marginalized population.<sup>38</sup>

### **3.2 Condition of Protection of Rights in Context of Constitutional Provisions**

Untouchability against Dalits is still prevalent in modern times. Dalits face untouchability in daily life, which leads to separation, abuse, and embarrassment.<sup>39</sup> A Dalit's daily social existence is oppressed, exploited, humiliated, and abused by the so called superior or high-status citizens. Despite constitutional safeguard, the rate of crime towards Dalits appears to be higher. Violence and abuses against Dalits are committed on a regular basis. Homicide, rape, and grievous hurt continue to be prominent, with an upward tendency.<sup>40</sup>

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<sup>34</sup> *ibid*

<sup>35</sup> For example, the Urdu-speaking population or Biharis only acquired formal citizenship as late as 2007 through judicial intervention. Tam O'Neil, 'Doing Legal Empowerment Differently: Learning from Pro-Poor Litigation in Bangladesh', p-13 (2015) <<https://odi.org/en/publications/doing-legal-empowerment-differently-learning-from-pro-poor-litigation-in-bangladesh/>> accessed 17 April 2022

<sup>36</sup> Pranab Kumar Pandey, 'Politics of land grabbing: The vested property act and the exploitation of Hindu communities in Bangladesh', 23 *International Journal on Minority Groups*, (2016) P 382, 382-401

<sup>37</sup> Farzana Islam, 'Dalit Women in Bangladesh: Multiple Exclusions' p- 35 (2011), <<http://www.indianet.nl/pdf/DalitWomenInBangladesh.pdf>> accessed 27 April 2022

<sup>38</sup> *ibid*

<sup>39</sup> *International Dalit Solidarity in Bangladesh*, 'Social, Economic and Cultrual status of Dalit Community in Bangladesh' (2005)

<sup>40</sup> *ibid*

Disputes over the implementation of land reforms, allotment of cultivable land and home sites, claims by dalit agricultural laborers to fight for fair salaries are frequently met with violence by the land owners.<sup>41</sup> In this modern world, the economic future of Dalits and their support systems likewise offers no solution. This is also apparent in democratic places built on universalism ideas, where Dalits are excluded.<sup>42</sup>

Human rights violations against Dalit women are closely linked to the Hindu Caste System's prescriptions for women's position in general and Dalit women in particular. Dalit women are oppressed from a sense of security, as she is reliant on man, and from a caste perspective. Dalit women are also subject to recurring sexual violence and abuse.<sup>43</sup>

### **3.3 Dalit Community under Anti Discriminatory Bill 2022**

The Anti-Discriminatory Bill 2022 was introduced into parliament on April 5, 2022. The law complies with the constitution's Article 27, 28, and 29, which prohibit discrimination on the basis of class, caste, sex, or religion, guaranteeing protection of equality and human dignity for all citizens of the country. No one in the country shall be discriminated against because of their caste, religion, race, language, age, gender, place of birth, occupation, or "untouchability," according to the anti-discrimination bill 2022.<sup>44</sup> It goes on to say that citizens cannot be denied employment from government offices, public institutions, or non-governmental organizations, and that no one shall be refused service of public institution.<sup>45</sup>

Working closely with the Dalit and Harijan groups, who are largely employed in the waste management industry and are classified as "untouchables" due to their low status in the society, sparked the demand for such regulation.<sup>46</sup> Their helplessness and continuous discrimination were revealed through the proof and study procedure. They are stigmatized, humiliated, and degraded

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<sup>41</sup> Mortuza Ahmmed, 'Violence against the minorities in Bangladesh', Romanian Review of Social Sciences, (2013)

<sup>42</sup> ibid

<sup>43</sup> ibid

<sup>44</sup> Clause 4 of the Anti-Discrimination Bill 2022

<sup>45</sup> ibid at Caluse 4(a), 4(b)

<sup>46</sup> Shaheen Anam, 'Anti-Discrimination Bill 2022: Can it give hope for a just society?' *The Daily Star* (Dhaka, 23 April 2022) <<https://www.thedailystar.net/views/opinion/news/anti-discrimination-bill-2022-can-it-give-hope-just-society-3010256>> accessed 27 April 2022

everywhere they go, from trying to get into educational institutions to having a meal to a restaurant to seeking employment outside of their waste management industry, with no remedy.<sup>47</sup>

The proposed bill does not provide much guarantee that an aggrieved individual who has been discriminated against would receive justice. A national surveillance council, led by the ministry, with 15 secretaries or joint secretaries and three to four civil society representatives, has been suggested. Furthermore, the communities with the most at stake are not represented. It is believed that this would turn into another top-down, incompetent bureaucracy.<sup>48</sup> There is uncertainty that this bill, along with other progressive legislations, will be repealed. While certain legislation is quickly implemented—even going beyond their regulations protecting human and basic rights, as well as those that enable individuals to demand accountability and responsibility from the government, go mostly unenacted. The same would be typical of international treaties and conventions, which are signed with passion but are frequently ignored or only partially executed.

### **3.4 Judiciary's Approach towards Constitutional Rights of the Marginalized Community**

Justice R. Islam interpreted the doctrine of equal protection of law in the case of “Dr. Nurul Islam vs. Bangladesh”,<sup>49</sup> saying, "The basis on which the doctrine of equal protection of laws is established is that individuals in similar scenarios must be regulated by the same laws." Article 28 elaborates on the concept of equality established in Article 27 for specific scenarios. Article 28(1) prohibits discrimination based on religion, race, caste, sex, or place of birth, or any combination of these elements. The key term in this article is discrimination, which refers to establishing a negative differentiation or differentiating oneself from others.

The court said in the case of “Govt. of Bangladesh and others vs. Sontosh Kumar Shaha and others”<sup>50</sup> that the phrase "equal protection of the law" or "equality before the law" must be construed in its broadest terms. Regardless of the situations and circumstances in which they are put, all people are equal in every way. In all circumstances, equal protection of the law means that all people are treated equally. It implies that those who are in similar scenarios should be

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<sup>47</sup> *ibid*

<sup>48</sup> *ibid*

<sup>49</sup> 33 DLR 2013(1) LNJ (AD) 61

<sup>50</sup> 2016(1) LNJ (AD) 61

represented fairly. The notion of equality is a fluid one with numerous features and variations that cannot be contained within conventional and dogmatic boundaries.

## **Chapter Four**

### **Infringement of Rights of the Dalit Community**

#### **4.1 Non Acceptance of the Dalit Community**

The relationship between the 'Dalit' and others is unstable, with prejudice and discrimination present at each and every level. This is due to their identification, regardless of their social level or personal qualities. Their 'untouchability' frequently leads to confrontation with others, increasing their fragility and exclusion. The Dalits are subject to different types of social, political, and economic deprivation on a daily basis.<sup>51</sup> Dalits, for example, are forbidden from visiting other's households as well as public areas like as mosques, temple, stores, hotels, and restaurants.<sup>52</sup> They also suffer more difficulties in obtaining education, job, rental of house, and other essential utilities. They are also forbidden from marrying outside their community or caste.<sup>53</sup> Two Dalit men were refused government positions as police constables in 2016, despite their preexisting certification in service tests, since their residences couldn't be authenticated because neither they nor their parents had ever been registered landowners.<sup>54</sup> These individuals were restored in the police force after many groups intervened with the media and the National Human Rights Commission (NHRC).<sup>55</sup>

#### **4.2 Deprivation of Right to Employment**

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<sup>51</sup> Rabeya Rowshan, Riaz Uddin Khan, 'Bringing Dalit Women to the Forefront: Realities and Challenges' (2016) p-10

<sup>52</sup> *ibid* at p-10

<sup>53</sup> *ibid*

<sup>54</sup> BDERM, NNMC, IDSN, 'NGO Report to the UN Human Rights Commission on Caste based Discrimination in Bangladesh' (2017) p-12

<[https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BGD/INT\\_CCPR\\_CSS\\_BGD\\_26524\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BGD/INT_CCPR_CSS_BGD_26524_E.pdf)> accessed 30 April 2022

<sup>55</sup> *ibid*

In the employment and in business, the Dalit community experience severe discrimination, particularly when competing against applicants from dominant groups. Although being qualified, many Dalit have been refused employment because of their identification as Dalit.<sup>56</sup> The Dalits who received higher education and get into a job seek to conceal their race or family identity and isolate themselves from the rest of the society. Moreover, many educated Dalit do not search for employment for which they are qualified; instead, they look for a job such as janitor or sweeper since they know that if the hiring body discovers their Dalit identification, they would be rejected.<sup>57</sup> People choose to boycott Dalit's shops, particularly if they try to do any business contributing to food manufacture, thus they can't establish any food business. Due to mainstreamed people's socio-political interferences, most Dalit are barred from the general labour market, and in many cases, they are also excluded from their traditional activity of sweeping.

#### **4.3 Dalit Community Subject to Torture and Inhuman Treatment**

A significant number of Dalits are often subject to torture and inhumane treatment, making them vulnerable. While practically every Dalit experiences oppression and discriminatory treatment, Dalits are particularly vulnerable because they face violence at all levels of society, including in workplaces and public areas. In the political and social fabric, torturing has become usual. Because of their fragility, the Dalits are much more vulnerable. They face assault or threats if they refuse to comply with unfair torture behaviours. Dalits are frequently denied access to water and sanitation. They face large-scale violence and physical attacks from members of the dominant community while seeking to use amenities in regions where they live.<sup>58</sup> While collecting water from public wells and taps, Dalits are particularly exposed to physical assault from members of the dominant groups.<sup>59</sup> It's important to remember that torture and inhuman treatment is not really done against members of the majority community. This indicates that the process of establishing separateness among minorities has entered the nation's backbone.

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<sup>56</sup> Iftekhar Uddin Chowdhury, 'Caste Based Discrimination in South Asia: A Study of Bangladesh' p-11 (2009)

<sup>57</sup> *ibid* at p-12

<sup>58</sup> UNHRC, 'Report of the Special Rapporteur on minority issues' (2016) p-36

<[http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A\\_HRC\\_31\\_56\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A_HRC_31_56_en.doc)>  
accessed 3 May 2022

<sup>59</sup> *ibid*

#### 4.4 Dalit Women Subject to Gross Violence

Because an assault on a Dalit woman is seen as an assault on the community members, they are more vulnerable. The dominant society's patriarch norms increase their force, making it easier for them to violate the rights of the marginalized group; at the same time, patriarchy among minorities makes women even more vulnerable and excluded. Rape, acid throwing, harassment, abuse, and other types of heinous crime are all documented in the media.<sup>60</sup> Women in Bangladesh are in vulnerable position when the question of their right to property, health, economy etc. arises. The law enforcement authorities often fail to evaluate cases in situations of violence against women. No essential response was taken within 2 years even after a minor Dalit girl was brutally raped and killed, although the girl's parents filed a complaint to the police immediately.<sup>61</sup> In that case, the victim's family also claimed to receive constant threats from the accused as the offender was a family member of a powerful local politician.<sup>62</sup> The ferocity of the violence may be inferred from the instances' circumstances. Many victims were afraid to go to court for fear of further ramifications, therefore they were unable to do so.<sup>63</sup> Even after a case has been filed, there is often a threat to drop the complaint or suffer serious consequences. Dalit Hindu women in their own community are subject to restrictive inheritance rights. Domestic violence is frequently ignored in Dalit Community. The court's reluctance to impose harsh punishment for domestic abuse results into violence against Dalit Women.<sup>64</sup> Legal action can resolve some of these issues if reported but in most situations, violations of women's rights are tolerated due to the social stigma of Bangladesh's social and cultural life.

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<sup>60</sup> Mohiuddin Ahmed, 'State and Civil Society: The Other Options' (2000) p-15

<sup>61</sup> Alternative Report to the 65th session of the U.N. Commission on the Elimination of Discrimination Against Women, (2016) p- 9,  
<[https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BGD/INT\\_CEDAW\\_NGO\\_BGD\\_25431\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BGD/INT_CEDAW_NGO_BGD_25431_E.pdf) accessed> 4 May 2022

<sup>62</sup> *ibid*

<sup>63</sup> *ibid*

<sup>64</sup> *ibid* at 16

#### **4.5 Right to Land and Property**

Exclusion from right to land and property is a serious problem that is often affected by poverty and vulnerability. Most Dalits are totally deprived of right to land, despite they have legal claim to their property, that they're the most impoverished landless community of society. The Dalits are compelled to dwell on the edges of communities or in areas where no one else prefers to live.<sup>65</sup> The dominant groups are taught to avoid living in close range to Dalit communities. The dominant group also prevents the Dalit from settling nearby to their properties. As a consequence, acquiring property and living in the residential neighborhoods of dominant groups is incredibly difficult for the Dalit community. There have been several instances where Bengalis have refused to sell any land or property to Dalits.<sup>66</sup>

In cities, Dalits are typically housed in shantytown complexes with poor access to water, electricity, and sanitation.<sup>67</sup> The majority of Dalit settlements are primitive, one- or multi-story residences. Because of the rising population, several Dalits are forced to live in huts built of fences within the community. Urban Dalit settlements are notorious for being untidy and overcrowded.

#### **4.6 Freedom of Religion**

The Hindu faith is practiced by the majority of Dalits in Bangladesh. The Hindus are more severe in their enforcement of casteism and segregation of Dalits.<sup>68</sup> In Bangladesh, the acceptability and segregation of Dalits in the religious festivals varies significantly among the Hindu dominant groups. Dalits are allowed to participate in religious ritual events in some locations. In many cases, they are impliedly allowed but have a lower honour in their event. They are instructed to bring their gifts afterwards of the followers of the dominating tribes.<sup>69</sup> In such circumstances, some representatives of dominant Hindu groups strive to avoid them and occasionally make insulting remarks. In other cases, they are not acknowledged by the dominant Hindu sects and must

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<sup>65</sup> Iftekhar Uddin Chwodhury 'Caste-based Discrimination in South Asia: A Study of Bangladesh' (2009) p-22

<sup>66</sup> *ibid*

<sup>67</sup> BDERM, NNMC, IDSN, Social, 'Economic and Cultural Status of Dalit Community in Bangladesh' (2018) p-6

<sup>68</sup> Professor Ainoon Naher, Abu Ala Mahmudul Hasan, 'Dalit Communities Living in Railway Colonies/Lands in Northern part of Bangladesh' p-33 <<https://bdplatform4sdgs.net/wp-content/uploads/2016/08/Dalit-Communities-Living-in-Railway-Colonies-or-Lands-in-Northern-part-of-Bangladesh.pdf>> accessed 5 May 2022

<sup>69</sup> *ibid*

consequently perform their own ritual. Within their communities and colonies, some Dalit communities have their own temples.

## **Chapter Five**

### **Findings**

#### **5.1 Findings of the Research**

- i. The rights of the Dalit community are severely hampered by fundamental limitations in Bangladesh's socio-legal systems, which are worsened by cultural prejudices and discriminations. Despite constitutional protections and vows made by the government, marginalized communities including Dalits fail to develop social, political, and economic acceptability due to the existing context.
- ii. The government's lack of practicing democracy among all communities hinders Dalit participation and rise in socioeconomic progress. Dalit participation in local administration, government sector, labour market, commercial and business sector, legal sector and all other types of involvement remains insufficient.
- iii. The Dalits are deprived of a range of fundamental and human rights. Their standard of living is very poor due to their exclusion from the society. They are deprived of right to life, right to education, freedom of religion, freedom of movement, right to property, right to equal justice, right to food, water, sanitation etc.
- iv. There is no legislation which would deal with the matters restricting the discriminatory behavior towards the marginalized communities and ensuring the rights of them. The Anti-Discriminatory Bill 2022 is yet to be passed as an act and it has had a prolonged history full of constraints to be passed as a legislation.
- v. Discrimination against Dalits is associated with a number of elements, including land disputes, social status, caste system, racial prejudice, education, unemployment, low wages, poverty, lowest remuneration in profession, bankruptcy, higher castes rejection etc.

## Chapter Six

### Recommendations and Concluding Remarks

#### 6.1 Recommendations

- i. The government must take quick steps to remove inequality and casteism against marginalized community in all sorts of institutions. These initiatives should be started from a Ministry-level order forbidding discrimination in all types of institutions based on any social identification or status, including caste.
- ii. The government should establish and impose a comprehensive strategy to eliminate employment and discrimination based on descendance, with such a focus on Dalit community and other significantly marginalized groups, focusing on Article 28's constitutional protection against all types of discrimination.
- iii. The government needs to ensure that marginalized populations in Bangladesh get equal and impartial justice, as well as protection of their life and property. The government must uphold the marginalized community's fundamental rights, which are guaranteed in the Constitution of the People's Republic of Bangladesh.
- iv. The government should take real efforts to pass the Anti-Discrimination Bill 2022, which is now under discussion in the parliament, with the aid and advice of organizations that advocate for marginalized people, including Dalits. The proposed law should cover "colourism" and "untouchability practices," as well as discrimination by government servants and individuals, institutional discrimination, and remedies to discriminatory behaviours.
- v. The government should take appropriate measures to preserve Dalit property rights, as well as their entitlement to sufficient housing and protection from displacement. Their standard

of life must be protected in accordance with the constitutional guarantee described in Article 15.

## **6.2 Concluding Remarks**

The research shows that a large group of Dalits suffer from political, financial, racial prejudice in nearly every aspect of daily days. Their access to basic necessities is severely restricted and mistreated. For the Dalits, entrance to contemporary education or moving to different occupation, as well as involvement in the public service to initiate the revolution of change, is still a long way off. The purpose of this research is to identify the nature of discrimination and examine its scope using various techniques. Because of the misconception that Dalits are impure, they are frequently found in the most unsuitable regions that no one else would choose; on the edges of the residential area. Also because current Bangladeshi culture is very conservative in nature, it is a serious issue to confront concerns of rampant racism and prejudice based on caste and profession. However, this paper uses an impartial and unbiased technique to evaluate the level of caste and race based discrimination against Bangladesh's marginalized communities, which has become more of an accepted thing across the dominant communities of the country.

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**Department of Law**  
**Supervised Dissertation (Law 406)**  
**Semester: Spring 2022**

**Application for Approval of Research Proposal**

To  
Research Supervisor  
Department of Law,  
East West University

**Subject: Proposal for Approval of Research Title**

Dear Sir,

I am Sadia Iffat Mreedula, bearing ID: 2017-2-66-027 is a student of LL. B (Hons.) program of the Department of Law. According to the program, I would to undertake the course LAW406 (Supervised Dissertation) under your supervision

The *Title of Research* is mentioned below:

“Constitutional Rights of Dalit Community in Bangladesh: A Critical Study”

Therefore, I pray and hope that you would be kind enough to approve the mentioned research topic.

Thanking You

Signature of the Student

Approved by the Supervisor

Date: