

# Book Review on Prof. Dr. Mizanur Rahman (2018). *Human Rights Theory, Law and Practice in Bangladesh: Lectures and Essays*

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## Review

### Introduction

*Human Rights Theory, Law and Practice in Bangladesh: Lectures and Essays* by Prof. Dr. Mizanur Rahman is an endeavour to explore all the theoretical and practical perspectives of human rights in Bangladesh. If any layperson, paralegal, student, teacher, researcher, or practitioner considers the dearth of literature on human rights jurisprudence in the country, this book may be a precious contribution of the author who bears an extensive experience and diverse skills in human rights scholarship amid learning, teaching and research in academia as well as in national and international organizations, coupled with his long-term affiliation as the Chairperson of the National Human Rights Commission (NHRC) of Bangladesh from 2010 to 2016. This book on human rights is a compendium of the author's research-oriented write-ups based on his lectures, conference papers, and reflections of his practical experiences and multidisciplinary academic and nonacademic attachments. In his long academic career at the Department of Law of the University of Dhaka from 1989 to now and also as a lead consultant at different organisations at national, regional, and multinational levels for several decades, Prof. Rahman, with specialization in international and comparative law has witnessed Bangladesh's commitment on human rights and its upheavals under different political regimes. He has meticulously observed all nuts and bolts of diverse notions of human rights, the role of stakeholders, including the State and Non-State Actors, in recognizing, promoting, and protecting human rights in Bangladesh and beyond.

### Discussion

The author's discussion reveals that the book has mainly focused on the poverty-stricken toiling masses, under privileged and downtrodden section of the people, including marginalized child labourers and minority community and their untold contemporary struggles in realizing their fundamental human rights. In a broader sense, the author highlights some issues on human rights such as the significance of human rights, integral relation between law and human rights, Bangladesh Constitution and human rights, legal awareness, child labour and human rights, democracy and its connection with land rights and poverty alleviation, human dignity, victimology and restorative justice, peace and human rights, consumer protection, SAARC and human rights, the rule of law, independence of the judiciary, access to justice, right to food and its mosaic relationship with human rights and State obligation. Without a shadow of a doubt, it may be stated that the human rights law is relatively a new domain of public international law which has gradually developed and has been growing from the ashes of the Second World War (1939-1945) and the advent of the United Nations (UN) in 1945. Though the book partially covers the curriculum of human rights jurisprudence both in undergraduate and graduate level in the country, it may generate further thoughts for all readers including laypersons, students, teachers, researchers, advocates (attorneys), judges and policymakers who consider that every human being irrespective of his or her identity and place of living deserves certain universal and inalienable human rights to live with dignity in a civilized world. A thorough analysis of the book suggests that it is more appropriate to be treated as a reference book rather than a textbook.

Since human rights law is a cross-cutting discipline, its utility is heightening in all parts of the globe ranging from North America to Europe, Asia to Africa, and the Middle East to Latin America. The immense necessity of human rights jurisprudence is felt in all countries, especially in Asia and Africa's developing and least developed countries. In South Asia, particularly in India, Pakistan, Bangladesh, Nepal, Bhutan, Sri Lanka, and Afghanistan, the escalating need to rethink human rights jurisprudence and its implementation mechanisms cannot be underestimated. Moreover, there is a rosy possibility of further extension of human rights jurisprudence in Africa and Asia, especially South Asia. Throughout his writings, the author portrays the various insights on society, culture, politics and economics relating to human rights and social justice issues, together with his exceptional ideas on legal education, legal practice and community reforms in the perspectives of Bangladesh. As a prolific academic, he introduced many innovative programs such as street law program, community law reform project with enthusiastic, young and budding law students, human rights summer school, clinical legal education (CLE) for young law teachers so on. He imbibes the thought of anti-generic lawyering or rebellious lawyering for the first time in Bangladesh. Some of his students and disciples are now contributing to both the bar and the bench. It is observed that the book compiled by the author as a part of his commitment to revolutionize the existing human rights regime and legal education in Bangladesh is likely to have a durable impact on young academics and practitioners.

The ongoing trends and debates on human rights issues on the global, regional and national tiers amid persistent damages, threats and deterioration coined with fluctuating attitudes and lack of commitments of human rights proponents, leaders, defenders and activists around the world have created more concerns for the future of human rights. This book is also based on the 'think globally but act locally' approach. Consequently, with his teaching and research experience in Asia, Europe, and North America, the author has crafted the ramifications of human rights issues in South Asia with a particular focus on Bangladesh and its global and transcendental effects. It also addresses the concerns of human rights in Bangladesh to heal the wounds of violation of such rights, stressing the need for unity, cooperation, and collaborated efforts from the stakeholders of Bangladesh and the world community. As the book is a compilation of the author's thoughts in various times, it lacks any chapter rather than twenty-two papers or topics on various thematic issues on human rights and its adjacent subject matters with critical and constructive analyses. The introduction of the book begins with the title "Why human rights" in which the author underscores the need for human rights for every individual to ensure equality, human dignity and social justice. In the introductory topic on page 15, para 3, the author says:

*"Despite ... lofty proclamation of human rights in the Constitution of the country, human rights violations are only too common and rampant. Human dignity is on the fringe and social justice and equality are as elusive as ever. If this country is ever to become the dreamland of the Father of the Nation, Sonar Bangla (Golden Bengal), there is no alternative to realization of human rights in all their dimensions and facets for all..."*

The second paper of the book restates the cozy relation between law and human rights. The essence of this topic is to explore the ultimate purpose of law and human rights. Here, the author points out that the eventual goal of both positive and human rights laws is to ensure human welfare. The writer certainly utters those human rights is designed to provide human dignity and human welfare by guaranteeing the complete emancipation and development of a human being aside from furthering conditions for the utilization of their potentials. At the same time, the law facilitates the social institutions to remove the barriers for ensuring all necessary amenities for every individual to accelerate human needs and socio-economic well-being. According to the author, both law and human rights target to enhance human dignity and sometimes without human intervention, which the author believes to generate from the group of 'aggressive human rights activists or "rebellious lawyers"'.

In the third paper which is presented in a conference at Dhaka in 2014, the author critically analyses the human rights in the Constitution of the People's Republic of Bangladesh of 1972. In this part the writer quotes para three of the Bangladesh Constitution which pledges:

*"It shall be a fundamental aim of the State to realize through the democratic process a socialist society, free from exploitation, a society in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social, will be secured for all citizens."*

Citing nationalism, democracy, socialism, and secularism as four ideals of the State in attaining its short-term and long-term goals, Prof. Rahman analyses Part II and III of the Bangladesh Constitution. He analyzes some fundamental rights and principles of state policy highlighting the right to life and liberty, equality or

non-discrimination, right to fair trial, right to food, clothing, shelter, education, healthcare etc. using his keen jurisprudential lens and logic terming Constitution as the ‘charter for people’s empowerment’ and also “a code of justice”.

The fourth topic on “Legal Awareness: Catalyst to Promote Human Rights” examines the impediments and way-outs for promoting and protecting human rights in the country. The author emphasizes issues like social campaigns, human rights education, empowerment of the common masses, public interest litigation, and training of law enforcement authorities to expedite the country's existing human rights regime. In transforming the society from the old concept of “*status quo*”, he urges the youths with or without law background, for “rebellious lawyering” criticizing the existing trends and shackles of the occupation of a lawyer who is blessed with 3Ps, privilege, power and position. At the same time, the ordinary clients remain in oblivion, ignored, overlooked, and bypassed. In line with Professor Dr. N R Madhava Menon, who called the legal legend in India for his indomitable spirit in overhauling of the Indian legal education with his vision of socially relevant legal education in parity with the thought of the American jurist Dean Roscoe Pound who terms lawyers as social engineers, Dr. Rahman also bears similar attitude. Through the fifth paper of the book relating to human rights in Bangladesh, the author highlights the emergence of independent and sovereign Bangladesh from the clutch of Pakistani misrule, oppression and exploitation of all forms. In his sixth article, the author pinpoints the issues of child labour and human rights, highlighting Bangladesh's scenarios. From topics seven to ten, the writer illustrates the different issues of human rights such as democracy, land rights, poverty alleviation, the situations of human rights in Bangladesh and the role of the international community; the present and future challenges for international humanitarian law and the violence against minorities during election.

In the 11th paper, the writer discusses the International Criminal Court in a bird’s eye view. In three topics, twelve to fourteen, the author addresses several different but aligned issues. In topic twelve, the author addresses three case studies from the works of the NHRC illustrating the concept of victimology and restorative justice contextualizing Bangladesh, while in topic thirteen, he illustrates the right to peace and human rights amid challenges of international law after the much-talked-about 9/11 incident. In content number 14 of the book, the writer concentrates on consumer protection in Bangladesh and the current legislative framework on consumerism under the shadow of the Consumer Rights Protection Act, 2009. The 15th paper of the book focuses on the future of human rights in the country and the role of the NHRC. The author laments the ongoing culture of human rights in the country. Like many, he is also remorseful about the tragic incident of 1975 and the wounds coupled with irreparable losses halting the democratic growth of the country. In his 16th paper, ranging from pages 227 to 237, the author envisages the exponential urgency in adopting concerted regional measures for eight countries under the auspices of the SAARC. He stresses the need for SAARC Human Rights Commission and human rights diplomacy for eradicating the discrepancies of human rights in South Asia, paving the way for peace, prosperity and dignity for all.

Six topics out of twenty-two bearing pp. 238-320, are written in Bangla, which may be helpful for most people of the country who feel a lot more comfort to reading, understanding and analyzing in Bangla than in English due to lack of adequate orientation of the language. In topic 17, the content includes the rule of law, independence of the judiciary, and today’s Bangladesh. In topic 18, the writer sheds light on the functionality of an independent judicial system and access to justice for common people. The thematic issue under topic 19 is “going back to 1972”, seemingly an essay where the author is illusioned by the original version of the Bangladesh Constitution of 1972. However, he unearths the truth of the exploitation of the Pakistani rulers from 1947 to 1970 and overwhelmingly acclaims the independence of Bangladesh as a sign of good omen. Through a title on “food, human rights and state” under topic 20, the author entails the role of a state in interlinking food and human rights. In p. 263, relating to this thematic issue, the author cites the quote of a noted book of a Nobel laureate economist and philosopher Amartya Sen on “*Poverty and Famines: An Essay on Entitlements and Deprivation*” published in 1981 in which he (Sen) wrote:

*“The law stands between food availability and food entitlement. What he meant is that unless we take seriously our duties towards the most vulnerable, and the essential role of legal entitlements in ensuring that the poor have either the resources required to produce enough food for themselves or a purchasing power sufficient to procure food from the market, our efforts at increasing production shall change little to their situation. For they are hungry not because there is too little food: they are hungry because they are marginalized economically, and powerless politically.”*

Similarly, in p. 267, the author aptly cites the article 25(1) of the Universal Declaration of Human Rights (UDHR), 1948 that says:

*“Everyone has the right to a standard of living adequate for health and wellbeing of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lacks livelihood in circumstance beyond his control.”*

In this part, the writer cites some cases from the apex courts of South Africa, Nigeria, India, Brazil and Nepal in which the higher judiciary reminded the governments of those countries as to the right to food of every citizen and the strong bondage of this right with the notion of human rights and the courts also provide guidelines to ensure food for all. In the last part of the book, the writer ends his thoughts on the initial challenges of the NHRC and more specifically, has highlighted the challenges of the NHRC coupled with the accomplishments and aspirations of the NHRC. Particularly, the author has highlighted his tenure from 2010 to 2016 as the Chairperson of the NHRC. In his two consecutive terms, the author adopted the ‘right based but duty-oriented approach’ to streamline the flow of human rights, paving the way for establishing a culture of human rights in the country. In the last paper, he says that the challenges are enormous where around 50% of people from Bangladesh are not familiar with the concept of human rights but there are opportunities to motivate people of all strata as to the idea of human rights and sensitize them for claiming and realizing such rights.

Despite manifold limitations, the author said that the NHRC, through its concerted efforts, was able to assist many victims in retaining their rights, train the law enforcing agencies to comply with human rights standard in their respective actions, conduct research based on several study reports facilitating some noted researchers and prepare a human rights training manual. The reviewer observes that Dr. Rahman, being an illustrious academic, possesses a big heart to endure the constructive criticism of his book. The title of the book is “Human Rights Theory, Law and Practice in Bangladesh: Lectures and Essays” but there is little discussion on human rights theory throughout the book. As Dr. Rahman has emphasized practical aspects of human rights, he may have added a chapter on it. On the other hand, the author could have added an introductory part of the book shedding light on the nine basic international human rights (IHRs) instruments and their attachment with Bangladesh, a state party, to eight of these nine policy instruments. In the end, the writer should have critically evaluated the contemporary challenges and opportunities along with some findings and recommendations for ameliorating the State-sponsored violation of human rights in the country and the role of State and Non-State actors in bringing some check backs to the arbitrary government functions. Moreover, the writer could have focused on the human rights governance and implications along with some better practices among eight countries of the South Asian region. The author could have accommodated some globally and regionally recognized norms, standards, conventions, protocols and optional protocols along with some leading case references relevant with the paradigm of human rights. However, as the author is an Editor of a yearly based human rights research publication of ELCOP, he may focus on these said issues.

## **Conclusions**

This book had just come out in its 1st print edition in 2018. So, there is the further scope of adding some topics based on keen observations of the author as to the recent changes of human rights situations, attitudes and mindsets of the government, International Non- government Organizations (INGOs), Non-Governmental Organizations (NGOs), activists, and people of all strata. However, covering every aspect of human rights in a single book is neither possible nor desirable. Above all, the author's laudable initiative is to find time from his busy schedule to compile his various write-ups and speeches in a single book. The language of all book articles is lucid and does a pleasant reading, while its price is also reasonable with a catchy cover design. In the days ahead, the demand from the readers community for an inclusive book on human rights issues of Bangladesh integrating international and national human rights instruments and their linkage along with critical evaluation of real-life scenario may be put forward to the author expecting that in future, the author will write a book on human rights in Bangladesh with 360-degree approach and he will leave no stone unturned. In the end, the reviewer wishes a wider readership of this book of Prof. Rahman, who has educated, enlightened and inspired a lot of young minds by his thought-provoking ideas, inspirational writings and motivational speeches.