

**“The Constitution of People’s Republic of Bangladesh-
solemn expression of people’s will; a legal basis of social
changes”**

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Abstract

Present Bangladesh was once a part of British Empire for almost two hundred years, which became East Pakistan (a part of State of Pakistan) after separation in 1947. After proclamation of independence on 26th March 1971, Bangladesh finally emerged as independent nation on 16th December 1971 through liberation struggle, which was sparked by Bengali nationalist and self-determination movement. Constitution, which is the solemn expression of people’s will and supreme law of the Republic, was adopted on 4th November 1972 based on fundamental principles like nationalism, socialism, democracy and secularism. For the realization of aims stated in the preamble, number of fundamental rights has been incorporated in Constitution and the State is duty bound to secure such rights through democratic process. Moreover, fundamental principles of state policy were also narrated and socialist society was envisioned- setting economic, social and political goals for governance. These principles are fundamental to the governance, which shall be applied in making law, interpreting Constitution and form the basis of State’s works. Since the adoption of Constitution, several amendments have taken place till the date depending upon the changing situations, political needs and developments; still there is room left for modifications. Fundamental Principles of State Policy, Fundamental Rights and Constitutional Amendments-all these factors have great social impact for bringing social changes. This paper aims to find how these three factors influence social changes, along with their impact and acceptability; whether there remain harmony between constitutional amendments and social changes in Bangladesh and lastly, to suggest some operative measures to direct the way of social

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changes caused by above mentioned factors in positive way as much as possible for attaining the principle aims and ideals of the Constitution.

Keywords: *History, Fundamental Principles of State Policies, Fundamental Rights, Constitutional Amendments and Social Changes.*

I. Introduction

It's nature of human to live in company, which led to the emergence of society and state. 'State' denotes the political organization administered by authority known as 'government.' While administering state, government cannot act according to its whim and caprice; rather it has to follow certain rules and principles, which are collectively called 'Constitution.' Bangladesh is an independent and sovereign Republic which has its own written Constitution, based upon some principles; laying rules for the government regarding the administration of state. In addition, Constitution of Bangladesh also has placed some directive principles called 'Fundamental Principles of State Policy' in Part II and number of 'Fundamental Rights' in Part III. Since adoption, Constitution has undergone total seventeen amendments regarding various issues till the date. Constitution itself is a strong legal basis which can bring social changes. On top of that, fundamental principles of state policy, fundamental rights and amendments also influence social changes to a substantial extent. These social changes can take place in both positive and negative ways and most of the time social changes deriving from these constitutional factors aren't seen with much importance. Unplanned and unsynchronized social changes are most likely to hinder economic, political and social developments of a country, along with rule of law and good governance. However, problem can be solved by putting light upon the social changes originating from these three constitutional factors and taking essential measures to turn social changes into positive direction for the purpose of development. This paper mainly focuses on three aspects i.e. possible social changes or effect caused by above mentioned factors, along with the incidents of Constitution's adoption after liberation war; recommend possible way of implementing provision laid down in part II and III of Constitution in accurate way, for bringing positive social changes.

II. Historical Background (British Regime- Independence)

Bangladesh has attracted rulers for decades and the area has been exposed to external influences on a regular basis. Such exposure, as well as the influx of outsiders enriched cultural mixture and contributed to the development of lifestyle. British came to Indian Subcontinent for business purpose through East India Company under the charter of the Queen. However, their activities weren't limited to trade, as they started ruling the subcontinent for a period which lasted two hundred years. During British colonial period in India until 1947, territory of Bangladesh was a part of the British colony in undivided India which was governed by the Government of India Act. The British Governor-General attempted to divide Bengal for administrative suitability, which was an unsuccessful movement. Later, as the nationalist movement gained momentum; pressure for creating Pakistan was intensified and eventually Indian subcontinent was split into two sovereign countries. In 1947 British Parliament passed 'Indian Independence Act' which created two dominions - India and Pakistan – along with two separate Constituent Assemblies. Bengal was also divided and the eastern wing became eastern part of Pakistan, which is known as 'Bangladesh' at present. Since separation, East Pakistan faced number of problems and oppression as the relationship between the Western and Eastern part of Pakistan, in other words relationship between rulers of West Pakistan and people of East Pakistan was always hostile. In 1952, rulers of West Pakistan, along with central leaders and Urdu-speaking intellectuals attempted to establish 'Urdu' as state language, which was serious derogation of cultural right of people belonging to East Pakistan. On 21st January 1952 thousand of students were gathered in front of Dhaka University to protest, where police fired upon the crowd of students. Number of students laid down their lives for the sake of securing the dignity of language, which is a rare precedent in history and such movement of 1952 can be termed as 'first step towards independence. Father of Nation, Bangabandhu Sheikh Mujibur Rahman put forward six historic points which was led by political, social and economic deprivation by West Pakistan and such declaration organized the foundation of East Pakistan's further independence. In 1970, Awami League wasn't allowed to form government even though it attained majority votes and thus emerged as largest party in Pakistan parliament. Discriminatory treatment by the ruling elite of Pakistan,

unwillingness of the Pakistani rulers to give Bangladesh its rightful share of the national resources and their refusal to share power led to armed conflict between East and West Pakistan. People of East Pakistan strongly opposed economic and political inequality, as well as the cultural domination maintained by Pakistani rulers. Ultimately, Pakistan's colonial control over Bangladesh slipped and liberation struggle took place as Sheikh MujiburRahman made declaration of independence at Dacca on March 26, 1971 and urged the people of Bangladesh to defend the honor and integrity of Bangladesh.³ At the end of historic struggle, for national liberation against Pakistan, Bangladesh achieved victory on 16th December 1971. After independence country was recognized by international community, for being born as free nation in world's map through a blood struggle.

III. Adaptation of First Constitution of Independent Bangladesh

After the independence SheikhMujiburRahmanreturned to Dhaka on 10th January, as he was released by Government of Pakistan. After returning to independent country he issued the 'Provisional Constitution of Bangladesh Order, 1972' under the capacity of President of Bangladesh. By this order, it was provided that parliamentary form of democracy shall function in Bangladesh, shifting from the system of presidential form of government.⁴ Moreover, 'constituent assembly' was formed under this order comprising of the elected representatives of people of Bangladesh returned to National Assembly and Provincial Assembly seats in the election held in December 1970, January 1971 and March1971.⁵ Afterward, Constituent Assembly adopted the first Constitution of Bangladesh which came into force on 16th December 1972, exactly after one year of victory. Constitution of Bangladesh is class apart from other Constitutions of comparable description as it is the outcome of historic

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³ The Proclamation of Independence, 6, Seventh Schedule.

⁴ Provisional Constitution of Bangladesh Order, 1972, 4.

⁵ *Id.* § 4.

liberation war and great sacrifice, rather than a fruit of negotiation with colonial power.⁶

IV. Social Changes Caused by Adaptation of First Constitution

Constitution reflected the ideals of liberation war and greatly emphasized on democratic and progressive principles, as it was "the expression of people's will" and "the supreme law of the Republic."⁷Country has long history of exploitation and deprivation resulting in economic, social and political injustices since the period of British colonial rule and it continued as Pakistani rulers didn't provide people of Bangladesh with their rights. After independence, general people of Bangladesh who had already suffered deprivation, discrimination and witnessed destructions of war, expected a democratic government, the aim of which would be to realize through democratic process a socialist society, free from exploitation-in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social, will be secured for all citizens.⁸ They expected for social security, along with political, cultural freedom and justice. Framers of the Constitution emphasized the need of the people, considering the economic status, social condition and political need of newly born country while modelling the Constitution. High ideals of nationalism, socialism, democracy and secularism were enunciated as fundamental principles of the Constitution, as they inspired the heroic souls of the nation to lay down their lives in liberation war.⁹ Social changes took place after adoption of first Constitution of Bangladesh, as the whole structure of the nation, society, state mechanism, politics and economy took another dimension. High expectations were born in people's mind, as they were the citizens of a sovereign country which was free from the interferences of others. People from all sectors of society expected their rights to be protected, which were mostly snatched by the arbitrary rules in past periods. As Constitution was the reflection of people's will, framers of the Constitution tried utmost to guarantee human rights of citizens by the supreme law of the country; as a result, number of human rights were placed as Fundamental Rights (Hereinafter referred as FR)

⁶Dr. Mohiuddin Faroque v. Bangladesh, (1997) 49 DLR A.D. 1, ¶ 41.

⁷BANGLADESH CONSTITUTION . art. 7.

⁸BANGLADESH CONSTITUTION. PREAMBLE

⁹*Id.*

in Part III of the Constitution which are judicially enforceable and state is under obligation to safeguard them. Incorporating those FR had social impact, because realization grew among people that they wouldn't be facing oppression and discrimination as like past. Preamble of the Constitution reflects aspirations of people, which also unequivocally affirmed the establishment of a society where fundamental human rights and freedoms were secured for all citizens, which was 'fundamental aim of the state.'¹⁰ These factors brought significant social changes at that time, as birth of Bangladesh gave rise to great expectations among people. However, aspirations of people of society were strengthened by highlighting people's will, guaranteeing justice, human rights, freedom, equality in terms of politics, economy and social development.

V. Basic Features of Constitution & Social Changes

Constitution of Bangladesh has some features depending upon social, economic and political needs, as well as people's will and intention of framers of Constitution which were also reflected in these features. Moreover, these features bear some social effect causing significant changes as well.

VI. Four Fundamental Principles of Constitution

Constitution is based upon four fundamental principles i.e. nationalism, socialism, democracy and secularism.¹¹ Firstly, 'Nationalism' has been defined as feeling of people that they being proud of their country and is often accompanied by faith that one's country is better than any other country.¹² Nationalism inspires people of society and nation to be patriot, to be proud of own nation and give importance to the nation on first place and thus cause social changes by turning it into a patriotic one. However, nationalism has its own affects; as this would give birth to extremism- hampering relationship between human race, quality of life, peace and harmony. Secondly, 'Socialism' is an economic system where everyone in society equally owns the factors of production, ownership is acquired by democratic government and such system is

¹⁰*Id.*

¹¹BANGLADESH CONSTITUTION art. 8.

¹²Olivia Miller, *The Effect of Nationalism on Humanity*, UNIVERSITY OF OKLAHOMA, <https://www.theodysseyonline.com/effects-nationalism-humanity>, (last visited Feb.11, 2015),

based upon the cooperation of people of society.¹³ In a society, where socialism exists and moreover, it is incorporated in supreme law, people of society are treated equally and individual needs are taken into account along with social needs. After birth of Bangladesh through destructive war, cooperation between individuals and equal distribution of limited resources were much needed for the development and ascension from prevailing situation. In socialist society, profits are equitably distributed among workers as per the contribution, which can avoid exploitation. Such system was much needed as the country had limited resources and economy wasn't strong enough. However, at present the scenario has been changed; as society and social economy are no longer based upon cooperative nature, rather competitive nature exists which tells people 'greed is good.' People are more attracted towards capitalism though one of the four principles mentioned in preamble is 'socialism.' As consequence, poverty rate is increasing alarmingly; power is sometime being abused by government and unemployment is being major issue. These consequences have inordinate impact upon the society, as they're inescapably linked with the standard of lifestyle. Thirdly, 'Democracy' denotes the system of government in which supreme power is vested upon people and such power is exercised by them either directly or by their elected representative under free electoral system.¹⁴ As per the words of Abraham Lincoln, "*democracy is a government of the people, by the people, and for the people.*" By adopting Constitution, Bangladesh was declared as democratic state and it was stated in the preamble that democracy would be the fundamental principle.¹⁵ Such policy had significant social effect and brought considerable changes in society. People were part of government in which dictatorship and autocracy prevailed; where they faced oppression and suppression. However, independent Bangladesh provided democratic

¹³Kimberly Amadeo, *Socialism and Its Characteristics, Pros, Cons, Examples and Type; What It Is, How It Works, Comparison to Capitalism, Communism, Fascism*, THE BALANCE <https://www.thebalance.com/socialism-types-pros-cons-examples-3305592>, (last visited May 20, 2019).

¹⁴ Howard Cincotta, *What is Democracy?*, U.S. DEPARTMENT OF STATE'S BUREAU OF INTERNATIONAL PROGRAMS (Sept. 1998), <https://web.archive-2017.ait.org.tw/infousa/zhtw/DOCS/whatsdem/whatdm2.htm>, (last visited May 20, 2019).

¹⁵BANGLADESH CONSTITUTION . PREAMBLE.

government system where people were the supreme source of power, majority rule and minority rights existed, basic human rights were guaranteed, representation was ensured through free and fair election, equality before law was confirmed and Constitution was there to limit the government. People's will was mostly emphasized by declaring government as democratic one and Constitution as solemn expression of the will of the people.¹⁶ Such constitutional provision had better impact upon people, society and nation, as greater degree of freedom and due process in formation of law were ensured. Fourthly, 'Secularism' means the separation of state and religion by exclusion or rejection of religion from political or civil affairs of the state.¹⁷ People living in Bangladesh follow and practice Muslim, Hindu, Buddhist, Christian and other religions as well. Existence of secularism as state principle ensures equal right and status for people of every religion,¹⁸ and under such surety people can freely practice their own religion. Secularism separates state affairs and laws from religion. It also develops tolerance for other religions by erasing nepotism and extremism. Nonexistence of secularism in supreme law would've effect on the practice of democracy and freedom as well, which might cause adverse changes in society.

VII. Sovereignty Causes Social Changes

Bangladesh was established as a sovereign unitary Republic.¹⁹ 'Sovereignty' implies that Bangladesh is subject to no external authority or power and 'Republic' denotes that head of the state is elected person rather than a monarch. Bangladesh is People's Republic which indicates that sovereignty lies with the people and the Constitution is solemn expression of people's will.²⁰ People have voting right and they're entitled to elect representatives, which impose significant liability upon them, as they're taking part in forming government. People are the source of supreme power and sovereignty; and such power should

¹⁶BANGLADESH CONSTITUTION. art. 7.

¹⁷*Secularism And Its Effect On Society Religion Essay*, UKESSAYS <http://www.ukessay.com/essays/religion/secularism-and-effect-on-society-religion-essay.php?vref=1>, (last visited May 20, 2019).

¹⁸Bangladesh Constitution . art. 2A.

¹⁹Bangladesh Constitution. art. 1.

²⁰Bangladesh Constitution . art. 7

be used by them generously. As a result, sense of responsibility and liability work among people of society while exercising such important power. Moreover, as being sovereign state Bangladesh isn't subject to external interferences in making laws for governing state's affairs and behavior of the people. As a result, rights of people are also free from any sort of external authority or interventions ensuring freedom and security for them, which is exactly opposite scenario from any state not having sovereignty.

VIII. Preamble: A Part of the Constitution

Preamble is called the mirror of a statue which throws lights as to what statue intended to reach.²¹ Lamer CJ of Canada described preamble as '*the grand entrance hall to the castle of the Constitution.*'²² Preamble is a part of our Constitution²³ where core objectives and principles of the Constitution are stated, for saving it from misadventures. In preamble it was pledged that, it shall be a fundamental aim of the State to realize through democratic process a socialist society, free from exploitation-a society in which rule of law, fundamental human rights and freedom, equality and justice, political, economic and social, will be secured for all citizens.²⁴

IX. Fundamental Principles of State Policy

In part II of Constitution total eighteen 'Fundamental Principles of State Policy' (Hereinafter mentioned as FPSP) were included which translate into words the socialist society envisioned by the framers of the Constitution and constitute policies which shall be fundamental to govern the country, shall be applied in making laws, shall be guided to the interpretation of the Constitution and other laws and shall form the basis of the work of the state and of its citizens, but shall not be judicially enforceable.²⁵

FPSP mentioned in Part II are-

²¹MAHMUDUL ISLAM, CONSTITUTIONAL LAW OF BANGLADESH 64 (3rd ed., 2012).A.G. v. Prince Ernest Augustus, A.C. 436, 461 (1957). Powell v. Kempton Park Race-Course Co., A.C. 143, (1899).

²²Reference re Provincial Court Judges, 3 S.C.R. 3 (1997).

²³Anwar Hossain Chowdhury v. Bangladesh, (1989) BLD (Spl) 1.

²⁴Bangladesh Constitution. Preamble

²⁵Bangladesh Constitution. art.8. Islam *supra* note 19, ¶ 1.76, at 72.

- a) The unity and solidarity of Bangladesh nation,²⁶
- b) A socialist economic system ensuring attainment of a just and democratic society, free from exploitation,²⁷
- c) Guarantee of fundamental human rights and freedom and respect for dignity and worth of human persons and effective participation by people through their elected representative in administration in all level,²⁸
- d) Secularism and freedom of all religions,²⁹
- e) Principles of State, co-operative and private ownership and control of instruments and means of production and distribution,³⁰
- f) Emancipation of the peasants, workers and backward sections of the people from all forms of exploitation,³¹
- g) Fundamental responsibility of the state to attain, through planned economic growth, constant increase of productive forces and steady improvement in material and cultural standard of living of people with a view of securing to the citizens the provisions of basic necessities of life, right to work, right to reasonable rest, recreation and leisure and right to social security in form of public assistance in cases of undeserved want,³²
- h) Radical transformation in rural areas through the promotion of agricultural revolution, rural electrification, development of cottage and other industries and improvement of education, communication and public health with a view to remove disparity in standards of living between urban and rural areas,³³

²⁶Bangladesh Constitution. art.9.

²⁷Bangladesh Constitution. art.10.

²⁸Bangladesh Constitution. Art.11.B.S.E.H.R V. Bangladesh, (2001) 53 DLR 1.

²⁹Bangladesh Constiyution . Art.12.

³⁰Bangladesh Constitution. Art.13.

³¹Bangladesh Constitution. Art.14.

³²Bangladesh Constitution. Art.15.

³³Bangladesh Constitution. Art.16.

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- i) Establishment of uniform, mass-oriented and universal system of education and extending free and compulsory education to all children to such level as may be determined by law, relating education to the needs of society and removal of illiteracy,³⁴
- j) Raising the level of nutrition and public health and other; prohibition of intoxicating drinks and drugs injurious to health and prevention of prostitution and gambling,³⁵
- k) State's effort to protect and improve environment and preservation of natural resources, bio-diversity, wetland, forests and wild life,³⁶
- l) Equal opportunity of work and removal of social and economic inequality to attain uniform level of economic development throughout the Republic,³⁷
- m) Payment for work on the basis of the principle 'from each according to his abilities to each according to his work',³⁸
- n) Separation of judiciary from executive,³⁹
- o) Conservation of cultural traditions and heritage of the people,⁴⁰
- p) State's effort to protect and develop local culture and tradition of tribes, minor races, ethnic sects and community,⁴¹
- q) Protection of national monuments and objects and places of special artistic or historic importance or interest,⁴² and
- r) Promotion of international peace, security and solidarity and respect for international law.⁴³

³⁴Bangladesh Constitution. art.17. *Ain-O-Salish Kendra v. Bangladesh*, (2011) 63 DLR 95.

³⁵Bangladesh Constitution. Art.18.

³⁶Bangladesh Constitution. Art.18a.

³⁷Bangladesh Constitution . Art.19.

³⁸Bangladesh Constitution. Art.20.

³⁹Bangladesh Constitution . art.22. *Aftabuddin v. Bangladesh*, (1996) 48 DLR 1.

⁴⁰Bangladesh Constitution. Art.23.

⁴¹Bangladesh Constitution . Art.23a.

⁴²Bangladesh Constitution . Art.24.

X. Fundamental Principles of State Policy; Enforceability, Effect & Social Changes

All these principles are fundamental in governing Bangladesh, as government is under obligation to achieve and maximize social welfare and basic value of life and these principles shall be applied by state in making laws.⁴⁴ However, these principles aren't judicially enforceable, as they're distinguished from 'laws',⁴⁵ government is under obligation to act on them.⁴⁶ Existence of these FPSP in the Constitution forms an obligatory guideline and mandatory direction upon the government while governing the State and doesn't leave any scope of arbitrary actions. Moreover, citizens of Bangladesh also have realization and relief that, state won't act arbitrarily, as it's guided by FPSP; which assists people living their life with freedom, dignity and helps them to move toward economic, cultural and social development in day to day life, as they're free from the fear of exploitation. Despite judicial unenforceability, these FPSP always guide the state regarding affairs; law and policy making; interpreting the Constitution and other laws. Numbers of human rights were cited in International Bill of Rights (comprising the Universal Declaration of Human Rights 1948, International Covenant on Civil and Political Rights 1966 and International Covenant on Economic, Social and Cultural Rights, 1966); among them Economic, Social and Cultural rights were placed in Part II of the Constitution as FPSP.⁴⁷ If these principles are implemented by government and followed properly while making laws and interpreting the Constitution, then Bangladesh can be established as a welfare state in true sense, where human rights; basic human necessities; effective participation through representative; women empowerment; equal distribution of wealth, products, property; compulsory mass education; public health and nutrition; environmental protection; equal opportunity in work, protection and development of culture of tribes; international peace and solidarity would be ensured genuinely. Besides, poverty would be eradicated, employment

⁴³ Bangladesh Constitution . art.25. Saiful Islam v. Bangladesh, (1998) 50 DLR 318.

⁴⁴ Bangladesh Constitution . art.8, cl. 2.

⁴⁵ Kudrat-E-Elahi v. Bangladesh, (1992) 44 DLR A.D. 319.

⁴⁶ Wahab v. Secretary, Ministry of Land, (1996) 1 MLR 338.

⁴⁷ Dr. Muhammad Ekramul Haque, *The Bangladesh Constitutional Framework and Human Rights*, 22 DULW 55, 60 (2011).

would be ensured, education would be provided to mass level and social development would be rapider. Though, these principles are directive and no court can compel their implementation, yet government which rests upon majority vote can hardly avoid them as they'll certainly have to answer before the electorate at election time, because under democratic system actions of government are subject to mass scrutiny of people and criticism of opposition.⁴⁸ FPSParen't enforceable by court; however if government fails or neglects to implements these FPSP, despite having favorableconditions and resources, then government would be answerable to people, which is the highest tribunal.⁴⁹These features of FPSP and their existence in Constitution will impact the society to a great extent by generating sense of responsibility towards liabilities; awareness towards rights, guideline of governance and development; freedom from exploitation and arbitrary acts in the minds of citizens.

XI. Implementation of Fundamental Principles of State Policy & Present Scenario

Since independence 47 years have passed, yet most of the FPSP like poverty eradication, rural electrification, population control, emancipation of peasants and workers, public health and morality, protection of tribal and ethnical culture etc. haven't been implemented to fullest. Yet, to some extent rural electrification, communication development and women education have been done. Government has undertaken legal frameworks and administrative measures; ratified, signed and accessed international treaties, conventions and protocols. Government has passed laws for the purpose ofmaking primary education free and compulsory; prohibiting intoxicating drinks and drugs;to protect and improve the environment and preserve bio-diversity and natural resources;guaranteeing the fundamental human rights, freedom and dignity. Without these activities of government regarding the implementation of FPSP, it would be presumed by people that, these are mere decorative in the Constitution and veritable dustbin of sentiment. As a result, social effect of existence of these FPSP would be as same as non-existence. Violation of FSPS or non-

⁴⁸Md. ABDUL HALIM, Constitution, Constitutional Law and Politics: Bangladesh Perspective, 80 (5th Ed.,2012).

⁴⁹*Id.*

implementation is regular phenomenon, as country remains far behind in realization of such rights and implementation of these principles.⁵⁰ If state doesn't follow the guideline of governing the state's affairs, then whole system of democracy would be throttled.

XII. Fundamental Rights

Every person enjoys some moral and legal rights from very beginning of birth for mere fact that he/she is a human being and such rights are called 'human rights.'⁵¹ These rights are applicable to all people throughout the world irrespective of race, colour, sex, language and political or other opinion. When certain human rights are written or placed in the Constitution and some are guaranteed from being infringed by both executive and legislative they're called 'Fundamental Rights' (Hereinafter referred as FR). When they're inserted in positive law or supreme law of country they're placed beyond the reach of executive and legislative so that they cannot be taken away by ordinary process of law. In *JibendraKishorv.The Province of East Pakistan, (1957) PLD S.C. 9*. the Supreme Court of Pakistan held-

"The very conception of fundamental rights is that it being a right guaranteed by the Constitution cannot be taken away by the law and it is not only technically inartistic but a fraud on the citizens for the makers of the Constitution to say that a right is fundamental but that it may be taken away by the law."

XIII. Safeguarding Fundamental Right by Constitution

Bangladesh is a democratic country and the essential basis of democracy lies in rights and freedom. In democratic system political party winning with majority in election forms the government and thus governs the State. After coming into power democratic government may turn into a dictatorial one, violating basic Fundamental Rights of the people. However, one of the core objectives of placing Fundamental rights in Constitution is to restrain both executive and legislative from violating those right as per their will. As these rights are placed

⁵⁰Abdullah Al Faruque, International Human Rights Law: Protection Mechanisms and Contemporary Issues 50 (2nd ed., 2015).

⁵¹Halim, *supra* note 46, 2, at 93.

in the supreme law of the country, government cannot infringe them except constitutional amendment process, which is always a rigid one. For this reason, insertion of FR in written Constitution is considered as an act of safeguarding democracy, which is one of the fundamental principles as well.

XIV. Importance of Placing Some Basic Human Rights In Constitution

Second World War showed the worst trampling of basic rights; as a result in 1948 United Nations General Assembly adopted the Universal Declaration of Human Rights. In 1971, this country witnessed the destruction of liberation war, where basic human rights of people were severely infringed. This event moved the makers of Constitution and they realized the importance of placing some basic human rights in Constitution for avoiding such destruction and violation of human right in future. Total eighteen FR (Article 26 to 47A), which are civil and political in nature were incorporated in Part III of the Constitution. Moreover, classifications have been made further.

Firstly, FR have been classified into two groups-

- a. Rights granted to all person- citizens and non-citizens alike. These rights are enumerated in articles 32, 33, 34, 35, 41 and 44 of the Constitution.
- b. Rights granted to the citizens of Bangladesh only. These are enumerated in articles 27, 28, 29, 30, 31, 36, 37, 38, 39, 40, 42 and 43 of the Constitution.

XV. Some Fundamental Rights for Non-Citizens

Citizens of Bangladesh enjoy FR; even there are some FR which have been incorporated in the Constitution for those who aren't citizens but residents of Bangladesh. FR can find their origin from Bill of Rights, characteristic of which is universal i.e. these rights can be claimed by person universally for the fact of being human as they're much needed for freedom, dignity and life. Framers of the Constitution has placed some rights for non-citizens in the Constitution, considering the fact that there are some basic FR which are essential for resident as well who isn't a citizen of Bangladesh; for ensuring freedom of life, dignity and justice. Person who isn't a citizen of Bangladesh would feel relief, appreciating the fact that in the supreme law of the country there're some

legal rights guaranteed for him. Country has faced suppression, oppression and denial of human rights for decades, though it has safeguarded number of Fundamental Rights for people who might not be the citizen of the country; which denotes commendable revolution in terms of valuing human dignity and freedom.

XVI. Some Reasonable Restrictions upon Fundamental Rights

It's nature of rights that, enjoyment of one's right is subject to the enjoyment of other and for this reason enjoyment of rights can nowhere be seen in an absolute position. If unrestricted license for the enjoyment of right is given then it may hamper or jeopardize the enjoyment of other's rights. Though Fundamental Rights have constitutional guarantee, some limitations are needed to be imposed upon the enjoyment of some rights for welfare of the state, maintaining rule of law and good governance. If individuals are allowed to enjoy absolute freedom of speech and action then it would result in chaos, ruin and anarchy; similarly, if state imposes absolute restriction then it would result in dictatorship. For greater purpose of State's welfare restrictions can be imposed upon FR to some extent. In this regard the judgment of Justice Mukherjee in *Gopalan v. State of Madras*⁵², is worth mentioning-

“There cannot be any such thing as absolute or uncontrolled liberty wholly free from restraint; for that would lead to anarchy and disorder. The possession and enjoyment of all the rights.....are subject to such reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, general order and morals of the community.”

Afterwards, considering this and the idea of restriction in mind, some limitations have been imposed in FR mentioned in Constitution and FR have been classified into three groups based on the restrictions, i.e.

- a. Absolute Rights
- b. Rights on which reasonable restrictions can be imposed

⁵²A.I.R.1950 S.C. 27 (India).

- c. Some FR were left upon which parliament can impose restrictions⁵³

Grounds for imposing restrictions upon these rights have been laid down in the Constitution as well. Court cannot examine the reasonability of restriction; rather it can see the following two things only-

- a. If the law imposing restriction is a valid one
- b. If the right has been infringed or abridged in accordance with the law.⁵⁴

XVII. Reasons for Placing Fundamental Rights in Constitution and Social Changes Caused Thereby

Birth of Bangladesh, as an independent sovereign state took place through a destructive war; in which gross violation of human dignity and freedom were witnessed and such liberation struggle was outcome of age long oppression and denial of Fundamental Rights by rulers from time to time. State was emerged to establish and maintain an ordered society through democratic process, 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.⁵⁵ It was legit expectation of citizens that some basic Fundamental Rights would be ensured for them which are necessary for freedom, dignity and development as an individual, as they're part of an independent, sovereign and democratic nation, where constitutional supremacy prevails. Having regard to such expectations and the aim mentioned in the preamble to establish a society where Fundamental Rights will be ensured, framers of the Constitution placed number of Fundamental Rights, which were ensured. Another reason behind such act was to keep the liberty of individual beyond political decision of persons having majority support for the time being. Social effect and changes caused by placing Fundamental Rights in Part III of the Constitution was that, it was the beginning of journey to establish a society where Fundamental Rights would be ensured, and thus people had realization that their constitutional

⁵³This grouping has been done according to the judgment of the Supreme Court of Pakistan in *Abu A'laMoudoodi v. Government of West Pakistan*, (1966) 18 DLR S.C. 214. Halim, *supra* note 46, at 102-104.

⁵⁴AHAMUDUZZAMAN, *INTERNATIONAL HUMAN RIGHTS LAW* 11 (4th ed., 2015).

⁵⁵BANGLADESH CONSTITUTION. preamble. Islam, *supra* note 19, at125.

rights wouldn't be subject to any arbitrary infringement by executive and legislative, as mechanisms for protecting those rights were also added as one of the Fundamental Rights.⁵⁶ Different state mechanism and governance were established, where Fundamental Rights of individuals were placed in the supreme law, inconsistent laws with Fundamental Rights were declared void and state was restrained from making any law inconsistent with Fundamental Rights,⁵⁷ which denotes commendable impact of Constitution, as well as Fundamental Rights upon the society.

XVIII. Article 27; Rule of Law & Social Changes

All citizens were made equal before law and are entitled to equal protection of law as per Article 27 of the Constitution of Bangladesh; however it doesn't prohibit reasonable classification. Insertion of this article in part III oblige the state to maintain 'rule of law', which has been stated in the preamble as one of the objectives to be attained. As being constitutional objective, existence of rule of law has effect upon society and individuals belonging to society, which can bring changes. In a society, where rule of law prevails, supremacy of law exists free from the arbitrary and discretionary power of authority,⁵⁸ every man is treated equally before law irrespective of whatever rank and position,⁵⁹ protection of individual's liberty;⁶⁰ and finally certain basic human rights are legally protected free from arbitrary power. Moreover, state cannot use the power against individual except in accordance with law, explicitly set out in written laws, as well as individuals have to play according to stipulated and known rules until they're changed.⁶¹ Another effect is that, power is exercised in a manner which is just, fair and reasonable and not in capricious or arbitrary manner leaving scope for discrimination,⁶² as well as making the rulers subject to law curtailing arbitrary power and making the abuse of any power by

⁵⁶BANGLADESH CONSTITUTION. art. 44.

⁵⁷BANGLADESH CONSTITUTION. art. 26.

⁵⁸Entick v. Carrington, [1765] 19 St. Tr. 1030.

⁵⁹Conway v. Rimmer, [1968] AC 910.

⁶⁰Ridge v. Baldwin, [1964] AC 40.

⁶¹Islam, *supra* note 19, 1.82A, at 80.

⁶²Delhi Transport Corp. v. D.T.C. Mazdorr Congress, A.I.R. 1991 S.C. 101.

authority subject to control of courts.⁶³ However, failure to implement rule of law in society may bring adverse changes, as it results in gross violation of FR which reduce the tolerance.

XIX. Good Governance & Social Changes

Existence of Fundamental Rights supreme law and their implementation has some indirect effects in society; causing social changes. Guarantee and implementation of Fundamental Rights by government ensure good governance, which has impact upon society. 'Good governance' refers to the quality of governance, which denotes the management of relationships between government and its populace within given constitutional order.⁶⁴ However, meaning of good governance and its defining parameters may vary among the States depending upon society's level of political development, degree of economic development and maturity of social institution.⁶⁵ Whenever welfare and basic needs of citizens are ensured along with safeguarding Fundamental Rights, it can be said that good governance is achieved. As per the preamble of the Constitution its fundamental aim of the state to establish welfare society following the path of democracy where Fundamental Rights will be secured for all citizens. For ensuring good governance in a state, complete implementation of Fundamental Rights must, along with legal mechanism to protect those rights whenever any sort of infringement is made. Whenever good governance is ensured by implementing Fundamental Rights it'll cause dynamic changes including social, political and economic. Corruption will be eliminated from society; decision making process will be transparent, allowing people scrutinizing policies of government; government's accountability will be ensured, which has substantial effect as government is elected by people through democratic process and without accountability such government would more likely to be an autocratic one. Furthermore, transparency and accountability will promote public participation and cooperation in development, management of resource and other key sectors of society. On top of that, economic growth will be accelerated, sustainable development will be ensured, democratic institutions

⁶³Punjab v. Khan Chand, A.I.R. 1974 S.C. 543.

⁶⁴Faruque, *supra* note 48, 2, at 427.

⁶⁵*Id.* at 429.

will be strengthened, and society will be shaped in a manner suitable for economic and social development.

XX. Protection of Fundamental Rights

Insertion of Fundamental Rights in part III of the Constitution would be mere ornamental, even meaningless if no mechanism is provided by the Constitution for easy and effective enforcement against both executive and legislative in case of any infringement. Idea of protection of Fundamental Rights can be realized from American Declaration of Independence, 1776 where it is stated-

‘that all men are created equally, that they are endowed by their creator with certain inalienable rights; that among these are life, liberty and pursuit of happiness;

that to secure these rights government are instituted among men deriving their just power from the consent of the government:

That whatever any form of government becomes destructive of these ends, it is the rights of the people to alter or abolish it and to institute a new one.”

XXI. Enforcement of Fundamental Rights; Violation & Remedy

However, it's necessary for written Constitution to provide effective measure for enforcing Fundamental Rights, yet Constitution of some countries e.g. the Constitution of US and the French Constitution don't specifically provide for remedies. Article 44 of the Constitution of Bangladesh provides that right to move to Supreme Court for the enforcement of Fundamental Rights. On the other hand, under Article 102(1) High Court Division has the power to make orders or directions for the purpose of enforcing Fundamental Rights. Constitutional remedy for infringement of Fundamental Rights is of two types- judicial review i.e. to enforce Fundamental Rights against legislature; judicial enforcement i.e. to enforce Fundamental Rights against executive. Legal mechanism to enforce Fundamental Rights, if any violation or infringement is made by either legislature or executive provides remedy which can be accessed by people as of constitutional right. By exercising such right, people belonging to every sphere of society can have access to justice whenever their Fundamental Rights is violated by any law of parliament or any act of the executive. Without such remedy, people of the society would have

considered Fundamental Rights as mere ornamental ones and as fraud made by the Constitution maker. However, provision and scope was also introduced to avail remedy for people belonging to that portion of society which is poor, uneducated and less aware and cannot resort to higher court for lack of financial stability. Such act was done by liberalizing the concept of '*locus standi*' by millstone judgment in the case concerning Mohiuddin Faruque v. Bangladesh,⁶⁶ and concept of Public Interest Litigation (PIL) was there in Article 102(2)(a) of the Constitution. Thus, constitutional remedy was made available and FR were ensured for people belonging to almost every sphere of society, which also confirmed rule of law in society, as no wrong would be left without remedy.

XXII. What is Constitutional Amendment?

'Constitutional Amendment' means any modification, deletion or additions made to the Constitution. Parliament was given power to amend Constitution under Article 142, which provides for special procedure and prescribes that no bill for amendment should be presented to the President unless it was passed by the votes of not less than two-third of the total number of members of Parliament,⁶⁷ which is surely a democratic process.

XXIII. Amendments of the Constitution of Bangladesh; Subject Matters, Motives, Pros & Cons, Social Changes Caused

XXIII.I. In 1973 the Constitution (First Amendment) Act was passed which inserted sub-article (3) in Article 47 whereby any law providing for detention and trial of war criminals was kept out of the purview of the provisions of Part III relating to FR. Under authority of such amendment parliament passed 'The International Crimes Tribunal Act, 1973.'⁶⁸ By such amendment political priority of Government of newborn state was expressed, so as to initiate trial of war criminals and for the prosecution of persons accused of genocide, crimes against humanity, war crimes and other crimes in conformity with international laws as well. People from every sphere of society commended such step, as it wasn't easy for a new state emerged through destructive liberation

⁶⁶ (1997) DLR 49, A.D. 1.

⁶⁷ Islam, *supra* note 19, 1.31, at 23.

⁶⁸ Act No. XIX of 1973.

struggle to initiate trial of war criminals and perpetrators. However, Bangladesh took first step to turn impossible into possible by 1st Amendment by which a society was about to build, where existence of people who were against liberation war and independence was denied and individuals belonging to society appreciated such amendment as they has deep rooted hate for those culprits and wanted the nation to be free from their presence.

XXIII.II. Provisions for preventive detention, emergency and suspension of FR were absent in original Constitution; and by Constitution (Second Amendment) Act, 1973 Article 33 was amended providing for preventive detention and Part IXA was inserted conferring power to deal with emergency and suspension of FR during period of emergency, which was first caustic move of government upon democratic Constitution. In society and mind of individuals anxiety grew regarding the fact that such amendment would turn government into a dictatorial one, where power of preventive detention, emergency and suspension would be misused, democracy would be threatened and rule of law would be abolished. *‘What was given by one hand by Constitution was taken by the other hand’*⁶⁹- such stipulation prevailed.

XXIII.III. Constitution (Fourth Amendment) Act, 1975 was passed in January transforming the Constitution beyond any resemblance with the original.⁷⁰

Subject matter of the Amendment-

- a. In place of parliamentary system so-called presidential system was introduced; where Sheikh Mujib was made President by operation of law, which made him instrumental President as opposed to people’s President. President was placed in supreme position than the Constitution; which surpassed expression of people’s will and exercise of autocracy existed in disguise of democracy in society and country violating FPSP. Furthermore, impeachment and removal of President was made unprecedentedly difficult, which consolidated existence of dictator in democratic society.

⁶⁹BADRUL HAIDER CHOWDHURY, EVOLUTION OF THE SUPREME COURT OF BANGLADESH 79 (1st ed., 1990).

⁷⁰Hamidul Huq Chowdhury v. Bangladesh, (1982) 34 DLR 381.

- b. Turned parliament into powerless secondary rubber-stamp body, as President was armed with veto power and unfettered legislative power curtailing legislative power of parliament, moreover interval period of two sessions of parliament was also extended. People sanctioned supreme law making power to parliament which was disrespected by the amendment and effect of which was no confidence of individuals upon Government, which caused social change.
- c. Power of High Court Division to enforce FR was taken away by placing such power upon constitutional court or tribunal and deleting Article 102(1). Thus FR lost their significance and sanity which resulted in the loose of basic human liberty, dignity and human rights along with FPSP of establishing a society, where basic FR would be guaranteed. It also curtailed independence of judiciary by effecting appointment procedure and security of tenure of judges and thus President took control over judiciary. Thus, existence of FR become meaningless as court of justice became court of government; rule of law and good governance were obliterated from society.
- d. One-party political system was introduced, by which people's aspiration and mandate were made subject to one man's bidding which was characteristic of autocracy- completely opposite of democracy. Freedom of press was taken away, leaving no scope to criticize government through press, which left no option to individuals rather being silent audience; who were supposed to be the supreme source of power.

By such amendment scope of liberal democracy was choked in democratic nation; turning nationalist, socialist and democratic society into an autocratic one, which was indeed a negative social change upon society.

XXIII.IV. Constitution (Eight Amendment) Act, 1988 amended Article 100 and thereby set up six permanent benches of the High Court Division outside the capital and authorized the President to fix by notification the territorial jurisdiction of permanent benches. This amendment was appreciated by people of society, as opportunity of serving justice to root level was created, and thus people were assured as they're able to seek recourse to High Court Division in more relaxed and firm way. Such amendment, so far as it related to the creation

of permanent benches of the High Court Division was found *ultra vires* the Constitution by the Appellate Division in *Anwar Hossain Chowdhury vs. Bangladesh*⁷¹ as it was against one of the basic structures of the Constitution i.e. independence of judiciary. Moreover, 'Islam' was made the State religion of Bangladesh making religion a part of politics contravening fundamental principle of secularism. Such amendment was opposite of Bengali nationalism, mainstream Bengali culture and progressive society, which gave birth to religious extremism and hatred among individuals of society. At that time anti-minority movements against Hindus and tribal communities of country took place which destroyed existing communal harmony of society. By Fifteenth (Amendment Act) 2011 Article 2A was substituted, which is still contradictory with fundamental principle of secularism. As result, still communal riots are taking place, as religious extremism exists in people's mind, which has reduced tolerance for other religions. Age old communal harmony and conventional communal society of Bengali people are threatened at present which denote adverse social change.

XXIII.V. Constitution (Tenth Amendment) Act, 1990 extended the tenure of reserved seats for women for another ten years from the date of first meeting of next parliament; by Constitution (Fourteenth Amendment) Act, 2004 number of women member of parliament has been increased to 45 who will be elected in accordance with law and by Constitution (Seventeenth Amendment) Act, 2018 increased the tenure of reserved women seats to 25 years⁷². Both these amendments were made in conformity and to give effect to Article 19(3) and Article 28(2) and (4), which ensured women's participation in policy making and other sectors, by which position of women in society, as well as in politics were developed, as they're provided with opportunity of being engaged in state's administration. Concept of women empowerment was rooted in society which always has been a male dominated one and thus social change was brought.

⁷¹(1989) 41 DLRA.D. 165.

⁷² THE DAILY STAR, 17TH AMENDMENT CONSTITUTION PASSED, JULY 8 2018, <https://www.thedailystar.net/country/17th-amendment-of-constitution-passed-today-1601986?amp>. (accessed on 20th October, 2019).

XXIII.VI. 8th Amendment paved way for Fifteenth (Amendment Act) 2011, by which Article 7B was inserted, making preamble and provision of Part II, Part III of the Constitution unamendable, which was indeed a fruitful step. It also made speech of Sheikh MujiburRahman delivered on 7th March, 1971 and the Proclamation of the Independence in Mujibnagar on 10th April, 1971 part of the Constitution by including them as Fifth, Sixth and Seventh Schedule to the Constituting.⁷³ As these three documents have been treated as part of supreme law, it's understood that spirit of liberation struggle has been concentrated on, as these three documents have important links in development of the legal order of the Constitution and leading to liberation war. Such commendable amendment highlighted nationalism and also motivate people towards patriotism. By this amendment Article 18A was inserted for the protection and improvement of environment and biodiversity, which expressed government's sense of responsibility, willingness and concern towards environment's protection and created sense of responsibility among individuals of society for the protection of environment, as without joint effort such principles aren't possible to implement. Such amendment aimed to achieve sustainable development goal as it was 'for the purpose of present and future citizens.'

XXIII.VII. Sixteenth (Amendment Act) 2014 empowered parliament to impeach judges of the Supreme Court for their incompetence or misconduct based on two-third majority. In first Constitution drawn in 1972, parliament had power to impeach judges which was transferred to the President following the 4th Amendment and then again 5th Amendment legalized the formation of Supreme Judicial Council (SJC) for impeaching judges.⁷⁴ By Masdar Hossain Case⁷⁵ judiciary was separated from executive. The Supreme Court declared 16th amendment void as it was contradictory with independence of judiciary, one of the basic structures of Constitution.⁷⁶ While doing the same, former CJ S.K. Sinha said in his observation on the verdict some controversial words raising

⁷³ Islam, *supra* note 19, 1.46E, at 32.

⁷⁴ DHAKA TRIBUNE, 16th AMENDMENT DEBATE :HERE IS WHAT YOU NEED TO KNOW, Aug 1, 2017, <https://www.dhakatribune.com/bangladesh/207/08/18/16th-amendment-debate-need-to-know>. (accessed on 21st October, 2019).

⁷⁵ Secretary, Ministry of Finance v. Masdar Hossain, (1992) 52 DLR A.D. 82.

⁷⁶ Anwar Hossain Chowdhury vs. Bangladesh, (1989) 41 DLR A.D. 165.

conflict between ministers and Chief Justice. Country witnessed serious clash between executive and judiciary, which affected the society. Social change took place in respect of point of views, as individual observed the power of judiciary, by which it can declare any act unconstitutional if there exists any inconsistency with Constitution. Besides, 'check and balance' between the organs of State also came forward expressly and question also arose in individual's mind regarding the competency of judiciary, as it's the guardian of Constitution. Moreover, power of government having absolute majority also came forwards, which influenced society and its people regarding their responsibilities while choosing representatives

XXIV.Recommendations

1. FPSP are directive principles, having no judicial enforceability. However, government needs to consider principles set out in Part II while making law, interpreting the Constitution and of the other laws of Bangladesh, and forming the basis of state's functioning and of its citizens by utilizing available resources and economic progress. Till now Bangladesh isn't economically stable enough to place some FSPC in part III of the Constitution by providing them judicial enforceability, as resources in country are also limited to some extent. However, Government can make laws considering the implementation of these principles, by which judicial implementation of these principles can indirectly be ensured. State has signed and ratified good number of human rights treaties for guaranteeing fundamental human rights, dignity, freedom under Article 11. Almost everygovernmental regime has enacted laws for implementing these FPSP by court of law, where punishment is provided for the violation of provisions of law. This attempt of governments indicate the effort to implement FPSP for the purpose of realizing through democratic process in a socialist society, free from exploitation; 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. Yet some obligations are left to be fulfilled by government. Every government needs to utilize limited resources in productive way with core purpose of implementing and following these principles for economic, social and cultural

development. Moreover, parliament should enact laws relating to every single FPSP, providing adequate punishment or fine or compensation if any sort of violation is made to these laws. For the purpose of realizing Article 18(2) 'The Public Gambling Act, 1867'⁷⁷ was enacted which is indeed an archaic law providing maximum imprisonment of one year and fine amounting to six hundred taka, which is obviously not satisfactory to prevent gambling. Laws in this regard should be enacted by considering the gravity of activities or offences amounting to violate any of FPSP; concurrent situation and circumstances; social and political need and for providing adequate punishment, fine or compensation. For another instance, to implement provision of Article 18(1) 'The Consumer Right Protection Act 2000' was enacted, where process of trial by executive magistrate was provided. For that purpose, transgression of rights protected by this Act and the provision of Article 18(1) is frequently taking place. Acts should be enacted with suitable process of trial which can prevent present and further violation. To protect environment and bio-diversity Article 18A was inserted as FPSP and numerous numbers of laws were enacted and international convention relation to environmental protection were ratified for ensuring sufficient implementation mechanism. However, for the lack of awareness this principle is hard to be protected, as laws aren't sufficient enough in protecting environment, as this is a huge subject matter. Awareness programs and campaign should be undertaken creating mass awareness regarding FPSP and such act need to be done in cooperative way with the aid of government, NGOs, local government institutions, private institutions and foreign organizations. If the implementation of FPSP can be ensured to an obvious extent, this will bring social effect like social development, progressive economic growth, sustainable development and easy implementation of FR, as FPSP and FR are inter-linked.

2. Fundamental Rights, means and methods of ensuring them and providing Constitutional remedy in case of any infringement has always

⁷⁷ Act No. II of 1867.

been deliberated topic. There is a large segment of our society living in utter poverty and ignorance; they don't have access to courts defending against violation FR as they aren't aware about those rights in the first place. FR is available for them as well, however violation of their FR has become common phenomenon and they aren't able to avail justice against violation. Talking about their rights in posh hotels and in big seminars is something which doesn't really help poor people. Public spirited individuals, groups and conscious citizens, NGOs and civil society are working with full effort for ensuring justice for ignorant and backward section of society, as only for the reason of ignorance an individual shouldn't get excluded from opportunity of attaining justice. It's high time for government to take efficient steps safeguarding FR of backward sections by availing constitutional remedy in case of violation in easy and effective way having regard to Article 44 and Article 102, which has been inserted for protecting FR. For this purpose, 'Public Interest Litigation' (PIL) has been introduced to legal system long ago and '*locus standi*' has been liberalized. Lately, in judicial system of Bangladesh significance of PIL has increased to praise worthy level, when through PIL people's Fundamental Rights were safeguarded by High Court Division whenever infringement was made. PILs aren't only being used as an instrument to bring justice for people in general, but also heavy medium to make both executive and legislative alert about their responsibilities. If government succeed to ensure constitutional guarantee and remedy of Fundamental Rights for every individual, most importantly for drawback section of society then such act will have noteworthy social impact, as justice will be ensured to very root level; poverty will be reduced to creditable extent; rule of law and good governance will be ensured in absolute form; constitutional supremacy will prevail; economic, social and political development will be accelerated; FPSP will possibly be implemented in more efficient way and fundamental principles of Constitution will be honored.

3. Constitutional amendments are necessary for developments, adapting with changed situations, meeting up public demands, accomplishing political needs or agendas etc. Since adoption of the Constitution total

17 amendments have taken place which has political, social, economic effect upon State. While making any amendment government should be very cautious regarding the fact that whether such amendment will contradict any of the basic structures of the Constitution, whether amendment will violate any of the FPSP, whether amendment will infringe any of the Fundamental Rights guaranteed by the Constitution, whether amendment will portray the picture of democratic government as an autocratic one. Concept of 'rule of law' and 'good governance' should strictly be followed in this matter. Despite possessing absolute majority in parliament no government should misuse it and thus act *ultra vires* and make any amendment contradicting Constitution. Judiciary need to play strong role by implementing 'check and balance' rule and scope of judicial review if any amendment is inconsistent with Constitution. Government shouldn't introduce another amendment as like as 4th amendment of Constitution which formed an autocrat government in disguise of democratic one.

XXV. Concluding Remark

Constitution of Bangladesh is the solemn expression of the people's will, which is the supreme law of the country. It has narrated fundamental principles which are the pillars of the State and also are mandatory rules for the government while administering. It has enunciated FPSP as directive principles for the welfare of State, as well as for governance and guaranteed Fundamental Rights for ensuring basic human freedom, dignity and liberty. Supreme law of land safeguarding number of Fundamental Rights and providing FPSP can surely effect society and bring social changes and some of probable changes. Considering the vital effects of FSPS, Fundamental Rights and amendments and the effect of Constitution in bringing considerable social changes, focus should be given upon these changes along with their positive and negative consequences upon economy, policies, society and individuals of country. Maximum efforts should be made by government in directing these social changes in positive and developing direction. Otherwise, development processes will go-slow, problems like poverty and unemployment will rise, condition of life will fall, rule of law

and good governance will be hard to achieve, sustainable development will not be possibly be attained, constitutional supremacy will become theoretical only, high ideals and fundamental principles laid down in the preamble of Constitution will stay in words only rather becoming real.