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Human Rights Institutions under Scrutiny: A Comparative Study of Bangladesh and India

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ABSTRACT: The NHRIs are organizations formed in order to safeguard the human rights through ensuring that states adhere to international human rights standards. Most of these NHRIs have been accused of being ineffective, thus creating a major contradiction of the global human rights system. This problem has been identified mainly in developing nations grappling with political and economic difficulties. BNHRC stands out in terms of such an example. As such, this research will conduct a comparative analysis between the BNHRC and Indian NHRC in order to assess the effectiveness of BNHRC in tackling human rights violations in relation to their legal structures and institutional capabilities. This qualitative research makes use of both primary and secondary data from laws, legislations, ordinances, and policies. Being ex-British colonies with the common law system, Bangladesh adopted pre-1971 laws through the Law of Continuance Enforcement Order, as in India's legal continuity. Comparable socio-economic settings also support the analogy. Results show India's superiority in the mechanisms, with a specific Human Rights Court and prosecutors, an appointment process less influenced by the government, and strong operational procedures and shortcomings in the Bangladesh commission. The BNHRC does not have specialized judiciary, neutral appointment processes, or operational rules. Suggestions include legislative changes, such as improvements in rule-making, along with the Commission's active efforts to overcome challenges. Cooperation with the government is encouraged to create an enabling environment for the independent promotion and protection of rights of Bangladeshi citizens.

KEYWORDS: Human Hights Commission, Human Rights Institution, Comparison, Paris Principles.

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1. Background of Research

The National Human Rights Institutions (NHRIs) are rather new institutions that have been set up in order to promote and uphold human rights by ensuring collaboration between the government, civil society, and non-governmental organizations (NGOs). The NHRI can be defined as a quasi-judicial institution that is set up via constitutional or legislative means for the purpose of protecting human rights. The States have the liberty of choosing the institutional structure that is suitable for their legal/administrative system. The National Human Rights Institution could therefore be a range of institutions like ombudsman institutions, national human rights commission, hybrid commissions, and human rights institutes/research centers.[1] The human rights revolution began after the Second World War and still continues,[2] marked by the adoption of numerous international treaties[3] and national constitutional recognition concerning upholding of human rights and civil rights in all human endeavors across public and private domains.[4] Eventually, National Human Rights Institutions (NHRI) evolved in the 1970s.[5] The coming into being of new democracies in Eastern Europe after the fall of communist rule in the later part of the 1980s led to a rapid process of creation of the National Human Rights Institutions. Several models of institutions were used by countries in this era, among which were civil rights commissioner, human rights institute or center, human rights commission, legislative advocate, public defender or protector, and civil rights protector.[6]

The United Nations has persistently urged states to create NHRIs and define these institutions as independent and non-judicial bodies created by states through their constitutional and statutory powers for promoting and protecting human rights.[7] The United Nations organized a meeting in Paris in 1991 to develop the Paris Principles that provided

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[1] Dunja Mijatović, 'Paris Principles at 25: Strong National Human Rights Institutions Needed More Than (The Council of Europe,18 December 2018) <https://www.coe.int/en/web/commissioner/-/paris-principles-at-25-strong-national-human-rights-institutions-needed-more-than-ever>accessed 15 January 2026.
[2] Aharon Barak, The Judge in a Democracy (2008).
[3] H. J. Steiner, R. Goodman & P. Alston, "International Human Rights in Context: Law. Politics, Morals" (3rd edn. Oxford University Press 2008).
[4] ibid
[5] ibid
[6] ibid
[7] Office of the UN High Commissioner for Human Rights (OHCHR), National Human Rights Institutions, History, Principles, Roles and Responsibilities, 13 (2010).

guidelines for the formation of the structures and functions of National Human Rights Institutions (NHRIs). The principles have since been adopted by the United Nations General Assembly in 1993. Since then, there has been an increase in the number of NHRIs from very few to well over 120 institutions all over the world.[8] However, based on state, civil society, members, and employees the perseverance of effectiveness and independence of NHRIs vary across countries. It is essential to comprehend the variation due to rise of NHRIs. Few NHRIs, for instance, are financially and administratively independent contradicting the criteria of independence. To ensure the effectiveness of NHRI, providing room for robust national institutions might enhance regional rights protection. The NHRC was founded in Bangladesh in 2009 under The National Human Rights Commission Act of 2009 as independent statutory organization. Mandated to examine human rights infractions and eliminate legal discrimination, NHRC is intended to be a state-funded yet independent agency. However, in practice its roles extend to fact-finding, writing a report, and wait for official investigations for further action or conclusion.

In order to identify the merits and demerits of the National Human Rights Commission of Bangladesh, it is proposed in this paper that a comparison of the National Human Rights Commission of India be made using jurisprudence and statute. The choice of India is made due to several reasons, such as the fact that both the states have a similar history being former colonies of British Empire, common law system, legal continuity in the pre-independence period and similarity between their constitutional provisions. India and Bangladesh not only have fundamental rights that are justifiable but also have state policies which cannot be enforced by law. Furthermore, both states follow the concept of dualism in international law whereby international treaties and conventions should be enacted domestically in order to become part of the law of the land. In the context of similarities existing between the states, the Indian Commission offers more extensive practice and jurisprudence in the spheres of independence, investigation authority, victim centered remedies and cooperation with the government officials.

2. Statement of the Problem

[8] Linda C. Reif, "The Ombudsman, Good Governance, and the International Human Rights System" (Springer Science and Business Media Dordrecht 2004).

Under international law, especially the Paris Principles (1993), established by the UN General Assembly Resolution 48/134, it is stipulated that NHRIs should function independently, in a pluralistic way, and effectively. While there exists an established international human rights regime, many NHRIs in developing countries still encounter numerous difficulties in implementing their mandates into practical human rights protection. Such difficulties are especially pronounced in South Asia. As a dualist country and a state-party to both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), Bangladesh must incorporate international human rights norms into its national laws. In spite of the fact that the Bangladesh National Human Rights Commission (BNHRC) has been established through the National Human Rights Commission Act, 2009, its efficiency has been undermined by the government's control over the appointments process, lack of specialized Human Rights Courts, delayed implementation of rules for its implementation, and weak enforcement mechanism. Such shortcomings pose an inherent challenge of whether the BNHRC meets its international human rights obligations. Instead, India, having a similar legal tradition of colonial rule, a nearly similar constitutional structure, and a similar socio-economic environment, has another example in the Protection of Human Rights Act of 1993, which contains Human Rights Courts, a more balanced committee for selecting members, and effective procedural rules. Thus, the question is not whether the legal and institutional structure of the BNHRC is sufficient enough to comply with international norms, but which exact reforms should be introduced to make it so.

3. Research Gap

There is considerable work written about NHRIs and the Paris Principles, but there have been very few researches conducted which make an analytical comparison between the legal framework and effectiveness of BNHRC and INHRC due to their shared history of colonization and similar legal tradition. This research would explore the issues related to appointment process of BNHRC, rulemaking delays, non-enforcement of laws, and lack of Human Rights Courts in undermining its autonomy.

4. Evolution of the National Human Rights Institution

In 1946, the United Nations Economic and Social Council (ECOSOC) requested that its Member States think about the possibility of setting up national human rights mechanisms which would be able to assist the activities of the Commission on Human Rights.[9] The UN Economic and Social Council (ECOSOC), in its Resolution of 1960, recognized the potential contribution that national bodies can make in the field of human rights protection and promotion, and encouraged the member states to set up such organizations[10] including supports that NHRIs will offer in implementation of international human rights standards.[11]

During September 1978, a meeting was held in Geneva under the auspices of the United Nations' Commission on Human Rights, which established a set of guidelines that defined the functions and duties of the NHRI[12] which was later approved by Commission on Human Rights and the United Nations General Assembly.[13] In early 1980s, after U.N. Secretary General submitted several papers regarding the issue to U.N. General Assembly, the United Nations became involved in the process of establishment of NHRIs.[14] All these activities culminated in 1990 with the holding of a workshop by the Commission on Human Rights where representatives of national and regional human rights institutions participated in order to strengthen the NHRI framework[15] having goal to study the collaboration between national and international institutions and identify ways to improve efficiency NHRIs leading the outcomes as the "Paris Principles" in 1991.[16] These principles set standards in formation of NHRIs in general and the norms and principles for their efficient operation.[17]

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[9] Office of the High Commissioner for Human Rights, 'Fact Sheet No. 19: National Institutions for the Promotion and Protection of Human Rights (Archive)' (1993) < https://www.ohchr.org/en/publications/fact-sheets/fact-sheet-no-19-national-institutions-promotion-and-protection-human> accessed 20 January 2026.
[10] ibid
[11] ibid
[12] ibid
[13] ibid
[14] C. Raj Kumar, 'National Human Rights Institutions: Good Governance Perspectives on Institutionalization of Human Rights' Vol 19 Issue 2 American University International Law Review (2003) pp 259-300. <https://digitalcommons.wcl.american.edu/auilr/vol19/iss2/2/> accessed 20 January 2026.
[15] n 9
[16] OHCHR, 'Paris Principles: 20 Years Guiding the Work of National Human Rights Institutions' (30 May 2013) <https://www.ohchr.org/en/stories/2013/05/paris-principles-20-years-guiding-work-national-human-rights-institutions> accessed 2 February 2026.
[17] Katerina Linos and Tom Pegram, 'Architects of Their own Making: National Human Rights Institutions and the United Nations' (2016) Human Rights Quarterly Vol. 38 No. 4, The Johns Hopkins University Press, pp. 1109-1134 <https://www.jstor.org/stable/44488961> accessed 3 February 2026

In 1993, the Vienna Declaration and Programme of Action[18] reaffirmed the significant role of NHRIs in promoting and preserving human rights through awareness and education.[19] The UN has been eager to build a regional human rights framework[20] in the East Asia[21] similar to the Council of Europe, the Organization of American States, and the Organization of African Unity but the Association of Southeast Asian Nations and the Asia Pacific Economic Cooperation were neither united nor enthusiastic. The Southeast Asia[22] showed dissent due to concerns over "Asian values" argument[23] and hesitation about compromising national sovereignty.[24]

5. Research Objectives

Three guiding objectives of this study-

I. To analyze the institutional and legal basis of the Bangladesh National Human Rights Commission in terms of the Paris Principles and international human rights law.
II. To compare the institutional composition, mandate, and activities of the Bangladesh National Human Rights Commission and the Indian National Human Rights Commission.
III. To evaluate the institutional and legal weaknesses of the Bangladesh National Human Rights Commission and suggest ways to improve its independence and effectiveness through legislation.

6. Research Methodology

[18] OHCHR, 'Vienna Declaration and Programme of Action' (25 June 1993) <https://www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action> accessed 3 February 2026
[19] n 14
[20] Daniel A. Bell, 'The East Asian Challenge to Human Rights: Reflections on an East West Dialogue' (1996) Vol. 18, No. 3, The Johns Hopkins University Press pp. 641-667 <https://www.jstor.org/stable/762475> accessed 4 February 2026
[21] Li-ann Thio, 'Implementing Human Rights in ASEAN Countries: "Promises to keep and miles to go before I sleep"' (1999) Vol.2 Yale Human Rights & Development L.J. < http://hdl.handle.net/20.500.13051/5794> accessed 4 February 2026
[22]Yash Ghai, 'Human Rights and Governance: The Asia Debate' (2000) Asia Pacific Journal on Human Rights and the Law <https://www.researchgate.net/publication/248747531_Human_Rights_and_Governance_The_Asia_Debate> accessed 5 February 2026.
[23]ibid
[24]ibid

In conducting the present study, a doctrinal research approach using a comparative analysis method will be used to analyze the legal and institutional frameworks of the National Human Rights Commissions of Bangladesh and India. Sources of law used in this study are: the National Human Rights Commission Act, 2009 (Bangladesh), Protection of Human Rights Act, 1993 (India), Paris Principles, constitutional provisions, and international human rights instruments. Sources of secondary literature include academic books and articles, reports by the United Nations Human Rights Commission, United Nations Development Programme (UNDP), and the National Human Rights Commissions of both the countries. India has been chosen as a comparator country on account of the similarity in the common law system and constitution of the two countries.

7. Paris Principles and the formation and function of NHRIs

The UN General Assembly passed Resolution 48/134 entitled National Institutions for the Promotion and Protection of Human Rights on 20 December 1993; and the Paris Principles were annexed as an integral part of this resolution, urging all states to create their independent NHRIs. The full title of the document is Principles Relating to the Status of National Institutions. The Paris Principles set out the minimum standards required for the establishment of legitimate and effective NHRIs, which are based on three fundamental principles such as- independence, pluralism, and institution effectiveness. The Paris Principles specify the requirements for an NHRI in the following areas:

i. Broad mandate to promote and defend human rights;
ii. Broad functions to fulfill the mission of offering guidance, reporting, monitoring, addressing complaints, and promoting human rights education.
iii. Pluralism, to represent "social forces involved in the promotion and protection of human rights"
iv. Sufficient authority to inquire and investigate, collect evidence and documents, interact with NGOs and state agencies, and make their reports, conclusions, and recommendations public.
v. Sufficient resources for the budget, personnel, infrastructure, and institutional ability to carry out duties and fulfill roles.
vi. Collaboration with other State entities, NGOs, and civil society organizations

vii. International participation in international and regional human rights agencies and procedures to contribute knowledge and experience.[25]

These principles form the basic standards that would facilitate the creation of National Human Rights Institutions and ensure effective promotion and protection of human rights as well as human development in general. The Paris Principles were developed in connection with an international conference in Paris involving representatives of various governments and institutions who were worried about the increasing violation of human rights and necessity of having independent national institutions that would protect them. After being accepted, the principles were officially approved by the UN Commission on Human Rights and the UN General Assembly thus becoming the international standard of accreditation and activities of NHRIs[26] compelling member states to create NHRIs. NHRIs which comply with the Paris Principles are mandated by law to:

i. Advise parliaments, governments, and other bodies in matters relating to human rights;
ii. Monitor the human rights situation and provide an evaluation of policies in relation to human rights;
iii. Support victims of human rights violation, particularly in cases of discrimination based on race and ethnicity;
iv. Raise awareness through research on human rights;
v. Raise awareness through education on human rights;
vi. Raise awareness through communication on human rights.[27]

National Human Rights Institutions (NHRIs) were again affirmed by the World Conference on Human Rights as playing an important role in ensuring human rights through their roles of providing advice to governments, promoting remedy mechanisms, dissemination of information relating to human rights, and education on human rights[28] promoting the creation and development of NHRIs in accordance with the Paris Principles while respecting the right of each State to choose the structure most appropriate for them.[29] Bangladesh enacted

[25] GANHRI, 'Paris Principle' (GANHRI,2022) <https://ganhri.org/paris-principles/ > accessed 5 February 2026.
[26] UNGA Res 48/134 (20 December 1993).
[27] ENNHRI, 'What Role Can NHRIs Play in Non-Government Controlled, Non-Recognised and Other Disputed Territories?' (ENNHRI, 30 September 2020) <https://ennhri.org/news-and-blog/what-role-can-nhris-play-in-ngct/> accessed 12 February 2026
[28] Vienna Declaration and Program of Action 1993, art I (36).
[29] ibid

the National Human Rights Commission Act 2009 through its Parliament to create the National Human Rights Commission in pursuance of the international human rights treaties that bind the nation, to which the Commission is mandated to protect human rights.

8. Implementation Mechanism of Human Rights in Bangladesh

8.1. Domestic Implementation of Human Rights Obligations

Domestic implementation of decisions of human rights courts represents a demanding and sometimes intrusive form of state compliance with international standards, which requires states to address violations and conform their existing laws and practices to the underlying standards and values reflected in those decisions.[30] This process is inherently complex and political involving multiple national institutions and actors - executive, legislative, judicial, and social - with varying interests and goals, with conflicting interests in executing human rights judgements.[31] Governments vary in how they comply with international human rights standards and judgements, raising questions about the reasons for these differences.[32] Governments are principally responsible for implementing the human rights at the national level[33] where the people have always fought against the government for the execution of their rights, despite the fact that the state was created by the people themselves.[34] The notion of human rights demands that they be safeguarded by efficient governmental implementation procedures alongside access to justice and effective remedies for human rights breaches, the domestic human rights protection system depends on the availability of both.[35]

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[30] Dia Anagnostou, Alina Mungiu-Pippidi, "Domestic Implementation of Human Rights Judgments in Europe: Legal Infrastructure and Government Effectiveness Matter", Oxford University Press (2014) p.52. <http://anticorrp.com/publications/domestic-implementation-of-human-rights-judgments-in-europe-legal-infrastructure-and-government-effectiveness-matter/> accessed 14 February 2026

[31] Courtney Hillebrecht, 'The Domestic Mechanisms of Compliance with International Human Rights Law: Case Studies from the Inter-American Human Rights System', The Johns Hopkins University Press, Human Rights Quarterly vol 34. No 4 (2012) p. 959 <https://www.jstor.org/stable/23352236> accessed 14 February 2026

[32] Harold Hongju Koh. 'How Is International Human Rights Law Enforced?' (1999) vol. 74, issue. 4 Indiana Law Journal <https://www.repository.law.indiana.edu/ilj/vol74/iss4/9/> accessed 16 February 2026

[33] Wiston House, 'Addressing Implementation Gaps: Improving Cooperation between Global and Regional Human Rights Mechanisms (WP1291)' (2014) <https://www.wiltonpark.org.uk/event/wp1291/> accessed 19 February 2026

[34] Muhammad Ekramul Haque, 'Protecting Fundamental Rights through Restricted Legislative Competence: Application of the Doctrine of Eclipse and Severability' (2006) Vol. 17 no.1, Dhaka University Studies.

[35] Dr. Sarkar Ali Akkas, 'Judicial Independence and Protection of Human Rights in the Age of Globalization (2003) Empowerment Through Law of the Common People, pp 157-166.

8.2. Harmonization between National Law and International Human Rights Mechanisms

States may meet their international human rights commitments by making domestic law in conformity with international and regional human rights conventions. Protection of human rights within the domestic framework needs the creation of legal and institutional systems that are in accordance with the Charter of the United Nations and the Universal Declaration of Human Rights (UDHR) and other relevant international human rights instruments, in light of the political setting, legal tradition, cultural values, and socio-economic environment of the State.[36] Despite being a member of the United Nations since 1974, the International Bill of Human Rights, which includes the UN Charter, UDHR, ICCPR, ICESCR, and Optional Protocols to ICCPR, has greatly impacted the formation of its Constitution. Article 25 of its Constitution includes respect for international law as an aspect of state policy, which necessitates foreign relations to be carried out in conformity with the UN Charter of 1945. This is an aspect of limitation of sovereignty. In this context, it has also been seen how Bangladeshi courts have evaluated the legality of certain actions of its government in foreign relations in accordance with the UN Charter.[37]

8.3. Implementation of Human Rights under the Bangladesh Constitution

Human rights issues have been dealt with in the Constitution of Bangladesh in all its three distinct parts including the Preamble. However, rights that are provided for under Part II are not legally enforceable[38], human rights enshrined in the Part III are judicially enforceable[39]. The national system of human rights protection could be derived from the constitutional obligations outlined in Part III of the Constitution, which is judicially enforceable through the High Court Division of the Supreme Court under Article 102. Part III includes fundamental civil and political rights and their enforcement through judicial actions. Article 102(1) gives

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[36] Arif Ahmed, Md. Jahid Mustofa, 'Mechanisms for Implementation of Human Rights: A Critical Analysis in Bangladesh Perspective' (2016) Vol. 10, No. 1 Prime University Journal <https://www.academia.edu/33515807/Mechanisms_for_Implementation_of_Human_Rights_A_Critical_Analysis_in_Bangladesh_Perspective> accessed 19 February 2026

[37] Muhammad Ekramul Haque, 'The Bangladesh Constitutional Framework and Human Rights' (2011) vol. 22, no. 1 Dhaka University Law Journal <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjUmq_U2vr7AhVDcGwGHUatDScQFnoECA0QAQ&url=https%3A%2F%2Flaw.du.ac.bd%2Fen%2Fwp-content%2Fuploads%2F2017%2F09%2FVolume-22-Number-1-June-2011.pdf&usg=AOvVaw2UIfqb0_fsgkmwseKSs9UZ> accessed 21 February 2026.

[38] The Constitution of the People's Republic of Bangladesh 1972, art. 8(2).

[39] ibid art. 44.

the High Court Division the power to order the enforcement of fundamental rights, while Article 44(1) ensures the right to move the Court under Article 102 as a fundamental right itself.[40] These articles allowed aggrieved parties to file petition in HCD to enforce any of their constitutionally protected fundamental rights. Granting remedy under 102(1) is not discretion of the HCD; rather, mandatory if violation of a basic right is determined.[41]

8.4. Application of International Human Rights Law in Domestic Courts

The manner of applying international law in domestic jurisdictions will depend on the theory that is adopted in the respective legal system. The two main theories that dictate the application of international law and domestic laws include monism and dualism. The monist theory provides that international laws are directly applicable in domestic jurisdictions after the ratification of the international treaty.[42] In case of conflict, international law prevails.[43] Dualism, contrarily, suggested international and national legal rule as different entities, i.e., a clear separation is maintained in terms of their implementation. Bangladesh adheres to the dualistic viewpoint similar to United Kingdom, meaning international agreements are not immediately enforceable or followed domestically unless ratified and integrated into domestic law and local statutes[44] following proper procedure.[45]

The case of *BNWLA vs. Government of Bangladesh and Others*[46] reflected the dualist approach where the Court vehemently declared:

"Our courts will not enforce those covenants as treaties and conventions even if ratified by the State, as they are not part of the corpus juris of the State unless those are incorporated in the municipal legislation".

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[40] Mahmudul Islam, *Constitutional Law of Bangladesh* (3rd edn. Mullick Brothers, 2019).
[41] Kochuni v. Madras (1959) AIR, (SC) 725
[42] I. A. Shearer, 'Starke's International Law'(11th edn. Butterworth 1994) <https://openlibrary.org/books/OL1201871M/Starke%27s_international_law.> accessed 21 February 2026.
[43] Martin Dixon, 'Textbook on International Law' (6th edn. Oxford University Press 2007) <https://global.oup.com/academic/product/textbook-on-international-law-9780199574452?cc=de&lang=en&> accessed 24 February 2026.
[44] M. Shah Alam, 'Enforcement of international human rights law by domestic courts: A theoretical and practical study' (2006) Netherlands International Law Review <https://www.researchgate.net/publication/231844588_Enforcement_of_international_human_rights_law_by_domestic_courts_A_theoretical_and_practical_study> accessed 24 February 2026
[45] Md. Mostafa Hosain, 'Application of UDHR by Supreme Court of Bangladesh: Analysis of Judgments' (2013) Chancery Research and Consultants Trust <https://www.clcbd.org/journal/13.html> accessed 24 February 2026
[46] *BNWLA v. Government of Bangladesh and Others* (2009) 14 BLC 703.

The Supreme Court has taken a liberal stance in the interpretation of treaties in the absence of clarity in the domestic law. However, the applicability of treaties in Bangladesh is restricted due to the scarcity of case law, ambiguous provisions, and the limited reliance of the judiciary on treaties. As most treaties ratified by the country are not directly applicable in the country, the applicability of international law is ambiguous.[47]

9. Historical Background and Formation of the NHRC

The establishment of an NHRI was the result of the civil society and the international community's demand in 1990 to ensure the State's responsibility.[48] This agency was expected to provide the State with the appropriate guidelines and recommendations for protecting human rights and human rights advocates. In 1996, initial steps of establishing the NHRC began.[49] In 1998, with the aid of UNDP, a draft Act was prepared. However, the previous administration's legacy of neglect and incompetence kept the problem unresolved and under investigation for a considerable length of time.

One of the major milestones was the creation of the National Human Rights Commission on 1 September 2008 under the National Human Rights Commission Ordinance, 2007. This three-person Commission officially began its functioning from 1 December 2008.[50] The NHRC was formed through the promulgation of the National Human Rights Commission Act 2009, which came into force on 14th July 2009. It commenced operations in June 2010. Bangladesh National Human Rights Commission leadership has undergone changes from one term to another. In case of the First Commission, the Chairperson was the retired Judge of the Supreme Court of Bangladesh. In the case of Second and Third Commissions, the Chairpersons were law professors. Fourth and Fifth Commissions have been led by former senior bureaucrats. And in case of the present Commission, the Chairperson is the retired Judge of the

[47] Abul Hasanat, 'Using International Law in National Courts: Bangladesh Perspective' (2013) vol. 13 no. 1 & 2 Bangladesh Journal of Law <https://www.researchgate.net/publication/328853696_Abul_Hasanat_%27Using_International_Law_in_National_Courts_Bangladesh_Perspective%27_2013_13_1_2_Bangladesh_Journal_of_Law_49-73_ISSN_1609-3593> accessed 25 February 2026.
[48] Ain O Salish Kendra, 'Report on Civil Society Dialogue with National Human Rights Commission Bangladesh' (2017) <http://www.askbd.org/ask/2017/12/10/report-civil-society-dialogue-nhrc/ > accessed 25 February 2026.
[49] ibid
[50] ibid

Supreme Court of Bangladesh. Thus, the National Human Rights Commission Act, 2009 has been adopted under the leadership of people with varied professional backgrounds.

The Commission has been actively contributing towards the advancement of the business and human rights agenda by advocating for the implementation of the United Nations Guiding Principles on Business and Human Rights (UNGPs) in Bangladesh. It strives to encourage State bodies as well as companies to adhere to international human rights norms through awareness generation, policy dialogues, advocacy work, and the establishment of grievance mechanisms which can be both judicial and non-judicial in nature. Furthermore, the Commission assists in developing National Action Plans on Business and Human Rights that are inclusive in nature.[51]

10. Institution of the Indian National Human Rights Commission

The setting up of the National Human Rights Commission (NHRC) by the Government of India demonstrates that India is serious about promoting and protecting human rights in accordance with its constitution and international human rights responsibilities. Being one of the earliest NHRIs in South Asia to have been set up in the early 1990s, the NHRC has made an important contribution in terms of human rights governance in the region. The NHRC came into being on 12 October 1993 through the Protection of Human Rights Act, 1993 and has the responsibility to protect and promote human rights in India. Fourteen Indian States[52] have been set up in the various states in India for the protection of human rights within their jurisdictions. The Protection of Human Rights Act, 1993 is an exhaustive law that lays down the rules regarding the constitution, function, and jurisdiction of the Commissions.[53]

The term "human rights" is defined in Section 2(d) of the Protection of Human Rights Act, 1993 as the rights concerning the life, liberty, equality, and dignity of an individual which are conferred by the Constitution of India or any international covenant and are enforceable by the Indian Courts. The fundamental rights provided in the Indian Constitution are mainly

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[51] National Human Rights Commission, Bangladesh <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/Remedy/NHRC_Bangladesh.pdf> accessed 26 February 2026

[52] Manoj Kumar Sinha, 'Role of the National Human Rights Commission of India in Protection of Human Rights' (1998) Vol. 16 Issue 1, Netherland Institute of human Rights <https://doi.org/10.1177/092405199801600110> accessed 8 March 2026.

[53] NHRC (Procedure) Regulation 1997.

provided under Part III of the Indian Constitution.[54] Part IV outlines the Directive Principles of State Policy.[55] Whereas Fundamental Rights are conferred upon citizens as enforceable rights under Part III of the Constitution, Directive Principles of State Policy form Part IV, which outlines how the State should work in order to foster social and economic well-being. The term "Fundamental Rights" is used because the rights are recognized as intrinsic to every individual and as necessary requirement for the preservation of human dignity and development of human personality. However, in consideration of the ratification of the ICCPR and ICESCR by India, it is imperative that rights provided for in the Constitution be in consonance with these treaties. The Constitution itself provides for judicial review of fundamental rights.[56] In conformity with Article 32 and Article 226, the enforcement of the basic rights rests with the Supreme Court and the High Courts.[57]

11. Illustrative Cases from Indian Jurisdiction

11.1 National Human Rights Commission v. State of Arunachal Pradesh

The Commission has filed an appeal in public interest in the Supreme Court of India in conformity with Article 32 of the Indian Constitution.[58] Article 21 of the Constitution mandates the protection of the fundamental rights of around 65 thousand Chakma Hajong tribal members.[59] The development of the Kaptai Hydro Electric Power Plant saw many people being displaced from the then East Pakistan, with most of them seeking asylum in the states of Assam and Tripura in India during the 1960s. The problems which came up in this case were citizenship problems and fear of persecution by people of Arunachal Pradesh. The problems came up before the NHRC on account of intervention by two NGOs. As contended before the Court, the All–Arunachal Pradesh Students' Union had served a "quit notice" ordering the Chakmas to vacate the State, purportedly with the complicity or connivance of the State Government. Further, the State Government did not co-operate with the National Human Rights Commission (NHRC), thus delaying their proceedings unnecessarily and making way for the uprooting of the Chakmas from Arunachal Pradesh.[60] Based on the consideration of the

[54] Manoj Kumar Sinha, 'Implementation of Basic Human Rights' (Manak Publications New 1999), pp. 183-191.
[55] The Constitution of India 1950, arts. 38-51A.
[56] D.D. Basu, 'Human Rights in Constitutional Law' (3rd edn, Lexis Nexis Publishers, 1994).
[57] n 56
[58] National Human Rights Commission of India v. State of Arunachal Pradesh [1996] AIR (SC) 1235,
[59] The Constitution of India 1950, art. 21.
[60] Manoj Kumar Sinha, "National Human Rights Commission v. State of Arunachal Pradesh" (1997) 37 Indian Journal of International Law.

claims of both parties, the court instructed the Government of Arunachal Pradesh to protect the life and personal liberty of all the Chakma refugees living in the state. This decision assumes great constitutional importance in view of the fact that, for the first time, it was firmly established that the protection of Fundamental Rights, including the right to life and personal liberty under Article 21 of the Constitution of India, applies to non-citizens as well. The timely intervention of the Commission saved thousands of Chakma refugees from displacement.[61]

11.2. Indian Council of Legal Aid and Advice & others (Writ Petition Civil No.42/97)

This is based on a letter written on 3rd December, 1996, to the Commission by Chaturanan Mishra, the then Union Minister for Agriculture, regarding deaths due to famine in the Bolangir district of Orissa due to drought. In similar matter a Writ petition[62] has been filed before the Supreme Court of India by the Indian Council of Legal Aid & Advice on December 23, 1996, invoking the provisions of Article 32 of the Constitution of India. The petition has highlighted the issue that death due to starvation continues to happen in some areas of Orissa.[63] In its decision dated 26th July 1997, the Supreme Court of India stated that "the Petitioner could approach the National Human Rights Commission for appropriate relief," thus recognizing the jurisdiction of the Commission to interfere in cases where there are violations of human rights. In this regard, the NHRC took immediate action by instituting the case, putting in place interim measures to be followed for two years and setting up a committee by the Government of Orissa for land reform in KBK districts.[64] It has also had a Special Rapporteur in place to monitor the implementation of its directives. The Commission also noted that famine-related deaths in some areas were caused by governance failure that was marked by acts of omission and commission by those in authority.[65] The Commission reiterated that freedom from hunger is one of the fundamental rights of citizens. Hunger is one of the most serious violations of this right. In January 2004, the Commission convened a meeting of the

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[61] ibid

[62] Dr Mridula Mishra, 'Human Rights: Refugee Problem in India' (Vij Books India Pvt. Limited 2011) < https://books.google.com.bd/books?id=YPipCQAAQBAJ&pg=PA102&lpg=PA102&dq=Writ+petition+(civil)+No.42%5C97.+Sanjay+Parikh,+a+public-spirited+lawyer+on+behalf+of+the+Indian+Council+of+Legal+Aid+and+Advice+and+others,+filed+this+petition.&source=bl&ots=laLBpgruey&sig=ACfU3U1GBlDQ41ZHa5O-vK-kue1TVrRPBw&hl=en&sa=X&ved=2ahUKEwi9wLDA6vr7AhVcTWwGHTiJAxQQ6AF6BAgIEAM#v=onepage&q=Writ%20petition%20(civil)%20No.42%5C97.%20Sanjay%20Parikh%2C%20a%20public-spirited%20lawyer%20on%20behalf%20of%20the%20Indian%20Council%20of%20Legal%20Aid%20and%20Advice%20and%20others%2C%20filed%20this%20petition.&f=false> accessed 10 March 2026

[63] n 54

[64] National Human Rights Commission Report 2002-2003, (New Delhi, 2003), p.170.

[65] ibid

top experts to deliberate on the issues pertaining to the right to food.[66] Furthermore, the Commission has also decided to set up a Core Group for the Right to Food, whose duty would be to offer expert opinion on any matter that comes before it and suggest policy and institution measures accordingly. This measure shows how much emphasis is laid upon the economic, social, and cultural rights along with civil and political rights in the human rights regime of India. It also shows the realization by the Indian judiciary as well as the National Human Rights Commission that economic, social, and cultural rights are legally enforceable.[67]

12. Comparative study between Human Rights Law Framework in Bangladesh and India

This body, known as the National Human Rights Commission, is state-sponsored but independent and created in order to probe into any human rights abuses and injustices in the system. But its functions are mainly restricted to monitoring and reporting only.[68] Comparison of these two commissions from Bangladesh and India is provided hereunder in order to improve the functioning of Bangladesh Human Rights Commission.

12.1. Acknowledgement differences in terms of Definition

Under the law of 2009 of Bangladesh, “human rights” was defined narrowly as “rights guaranteed by the Constitution of Bangladesh and those declared in international instruments for which Bangladesh is a party and which are enforceable under existing domestic law.”[69] On the other hand, the "Protection of Human Rights Act, 1993" of India defines "human rights" in a much wider manner by including the rights relating to life, liberty, equality, and human dignity which are enshrined either in the Constitution of India or in the international covenants and are enforceable through the Indian courts.[70]

India has a distinct body or commission for separate sector under various sub-sections of Section 2 such as National Commission for Backward Classes, National Commission for Minorities, National Commission for Protection of Child Rights, National Commission for

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[66] ibid
[67] ibid
[68] Maliha Khan, 'How independent and effective is the NHRC?' (The Daily Star 12 July 2019) <https://www.thedailystar.net/star-weekend/cover-story/human-rights-how-independent-and-effective-the-nhrc-1769992> accessed 10 March 2026
[69] National Human Rights Commission Act, 2009 s 2
[70] Protection of Human Rights Act, 1993 s 2

Scheduled Castes, National Commission for Scheduled Tribes, National Commission for Women and Chief Commissioner for Persons with Disabilities for looking after the rights of separate people in specialized sectors which are lacking in Bangladesh NHRC Act.

12.2. Remuneration Frameworks

According to section 5(2) of the Act from Bangladesh, “Chairman and one Member of the Commission shall be full-time and other Members shall be honorary.” Honorarium and allowance will be given to the honorary members for discharging their responsibilities such as participating in the Commission’s meetings, etc., as per the rates fixed by the Commission, which is explained in Section 10(3). It is impossible to pay any member honorarium due to lack of budgetary support.[71] Whereas section 8 of the Indian Act states that the regulation would provide for the salary, allowances, and other conditions of services of Chairpersons and members under section 40, but in 1993, the Commission passed the Act entitled "NHRC Chairpersons and Members (Salary, Allowances, and other conditions of services) Rule 1993". However, no such rule has been made by the BD NHRC with regard to this issue.

12.3. Formation Default in Selection Committee

In Bangladesh, there remains a Minister and a Speaker in a Selection Committee according to section 7 but no Human Rights Expert is there to assist in selection. On the other hand, Section 4 of the Protection of Human Rights Act, 1993 has incorporated a more balanced appointment process through the constitution of the Selection Committee with both the representatives from the government in power as well as the opposition, consisting of the Prime Minister, Speaker of the House of the People and the Leader of the Opposition, hence making the appointment process less exclusive to the executive body. Moreover, the Act has also stated that there shall be no appointment of any sitting Judge of the Supreme Court or Chief Justice of a High Court in the Commission without the recommendation of the Chief Justice of India. In this regard, the appointment process through the Bangladesh model has made the control of the Selection Committee completely in the hands of the government.[72] Thus, the government's influence on the Bangladeshi NHRC is evident, as the selection committee is dominated by

[71] Sharifuzzaman, 'The Human Rights Commission Must Be Freed of Shackles' (Prothom Alo, 4 october 2020) <https://en.prothomalo.com/opinion/interview/the-human-rights-commission-must-be-freed-of-shackles> accessed 10 March 2026

[72] ibid

government appointees and the selection process is neither transparent nor inclusive.[73] There should be more civil society people to be made a part of the committee. Apart from the make-up of the committee and term limitations, there is nothing else mentioned in the act regarding the method of appointment, which makes the process unclear to others outside the government. The activists of human rights talk about the practices done in other countries; in Malaysia, for example, at least three out of five members of the National Human Rights Commission (NHRC) selecting committee are civil society members. In Thailand, there are even more representatives of different fields, where the committee includes five higher education institution members, ten human rights organization members, five political party members, and three from the media and business organizations.[74] In Bangladesh, however, the whole NHRC selection process is carried out secretly without any recruitment notice.

12.4. Appointment procedure

There have been complaints against the appointment procedure of the Chairperson and Members of the Bangladesh National Human Rights Commission on many fronts. The requirement of having expertise in human rights law is not provided in section 6(2) of the National Human Rights Commission Act, 2009. This means that people who lack the necessary knowledge of human rights law can become part of the Commission. This lack of qualifications can impact the operational capacity of the Commission to effectively discharge its responsibilities regarding human rights.[75]

On the other hand, the Protection of Human Rights Act, 1993 of India provides for the necessary qualifications which the National Human Rights Commission should have. As per Section 3, the Chairperson and some Members must have been former Chief Justice of India, Judges of Supreme Court of India, and Chief Justices of High Courts, while others must have knowledge of human rights or have experience in the same. In this way, this legal framework places great importance on the professional qualification of members of the NHRC, thus making the commission better able to meet its mandate of protection of human rights.[76]

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[73] N 68
[74] ibid
[75] A B M Asrafuzzaman, 'Strengthening the National Human Rights Commission of Bangladesh through a Legislative Amendment to Fulfill its Commitments Under Sustainable Development Goals (SDGs)' (Dhaka University Law Journal, Vol. 31, 2020)
< https://www.banglajol.info/index.php/DULJ/article/view/57013> accessed 22 June 2026
[76] ibid

Whereas in the matters related to appointments of officers and staff members too, as per Section 23 of the Bangladeshi Act, the Government, upon the request of the Commission, may depute any officer and staff members of the Republic to the Commission. Whereas on the other hand, where the matter of India is concerned, the Commission can make such appointments of additional administrative, technical, and scientific staff members as the Commission considers necessary, as per Section 11(2).

12.5. Regarding Creation of Rules Under This Act

Section 15 of the National Human Rights Commission Act, 2009 of Bangladesh provides for the procedure of appointment, powers, and functions of the mediators and conciliators to be provided by the rules. But since the formation of the Commission, no rules have been made in this regard. The Act further empowers the Commission, after obtaining the approval of the President and by notification in the Official Gazette, to make rules for the implementation of the objects of the Act. The lack of these rules is a major procedural deficiency.

In India, section 40 of the Protection of Human Rights Act, 1993 grants the power to the Central Government to make rules, in the manner of notification in the Official Gazette, for giving effect to the provisions of the said Act. Moreover, section 40A grants the power to the Government to give retrospective effect to rules made under section 40(2)(b) of the Act, but only in so far as it would not prejudice the interest of the person affected by such rules. Further, under the Act, the salary, allowances and conditions of services of the Chairperson and Members of the Commission shall be regulated by rules framed in accordance with the above provision. So, the commission framed some regulations including NHRC (Procedure) Amendment Regulations 1997, NHRC Chairperson and Members (Salaries, Allowances, and other Conditions of Service) Rules 1993, and Guidelines/instructions and Proforma to be followed by the local bodies for submission of information regarding deaths due to hazardous cleaning, etc.

12.6. Human Rights Court

The Indian legislation establishes the Human Rights Court in India. The State Government is permitted to notify that a Court of Sessions in each district may function as a Human Rights Court, with the permission of the Chief Justice, in order to facilitate speedy

disposal of offenses relating to human rights violation, as provided in section 30. Nevertheless, under the Bangladesh NHRC Act, the human rights commission can approach the High Court Division, but the procedure took a very long time and the commission did not have the means to lodge the writ petition.[77] A Public Prosecutor or an advocate with a minimum of seven years of experience as a Special Public Prosecutor needs to be appointed by the State Government for each of the Human Rights Courts in India under section 31. Although the commission has lawyers as members of its panel, yet it cannot make favourable decisions due to shortage of money, hence, the poor fee structure cannot lead to positive outcomes.[78] Human rights are an important and unique field of law that needs to be protected by an efficient system of institutions and courts. Specialized institutions may contribute to the determination of cases involving violation of human rights and remedy to the victims of such violations. But according to the National Human Rights Commission Act, 2009, no such provision was made to have Human Rights Courts. Thus, there is no special court in Bangladesh for determining human rights violations.[79]

12.7. Management of Fund for Continuing the Commission

According to Section 24 of the National Human Rights Commission Act, 2009, the sources of finance of the Bangladesh National Human Rights Commission Fund include yearly grant-in-aid from the Government and donations made by local government bodies. On the other hand, as per the provisions of Section 32 of the Protection of Human Rights Act, 1993, the Central Government in India is authorized to give grants-in-aid to the National Human Rights Commission out of funds allocated by the Parliament under the Act. The Indian Commission is entitled to spend the grants as it may find fit for discharging its obligations, which will be regarded as expenditure chargeable out of such grants. And similarly in India, the State Government will adopt the same process while making grants under section 33.

Since the budget of the human rights commission is granted by the law ministry, it lacks the element of administrative independence. Although there are separate secretariats of Anti-

[77] n71
[78] ibid
[79] N 75

Corruption Commission and Election Commission, but human rights commission has to do everything through the law ministry, where everything is improvised.[80]

12.8. Compensation Mechanism in NHRC

Other than the annual report as per the requirement of section 22 of NHRC Act, there will be a memorandum as to the reasons why any action was not taken or action taken by the government or other authorities in accordance with the recommendations made by the Commission. According to section 19, the Commission may recommend to the Government or the concerned authority for granting a temporary award to the victim or his relatives in a particular sum that is acceptable by the Commission.

However, the Indian Commission may recommend to the appropriate government or body to pay compensation or damages to the victim or to his family members as per the needs as per section 18, and the Commission may petition the Supreme Court or the appropriate High Court to issue any order or direction as may be deemed fit by the Court. After this, the concerned government or the body must furnish their comments on the report and the action which has been taken or is proposed to be taken in respect thereof, within one month or such further period as may be allowed by the Commission.

Therefore, the Bangladesh NHRC has no reparation process at all. The Commission cannot impose any penalties on anyone, although it can recommend penalties and compensation for the infringement of human rights. It is such a strong tool that it compels all organs of state to hold individuals accountable.[81] In the past 30 years, the National Human Rights Commission of India has recommended and facilitated the payment of a staggering Rs. 150 million in compensation for 9,220 cases of human rights breaches. The NHRC India only recommended compensation of Rs. 45,250,000 in September of 2020; Rs. 44,500,000 in August; Rs. 75,500,000 in July.[82] The National Human Rights Commission of Bangladesh has asked the Ministry of Home Affairs to provide Tk 1 lakh as interim relief to Muhammad Rasel Mia, a student at a school in Kurigram, whose eye was injured due to the shooting done by the

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[80] N 71
[81] Md. Abdul Halim 'A Decade of NHRC: Too Late Too Little' (TBT news, 10 December 2021) < https://www.tbsnews.net/thoughts/decade-nhrc-too-late-too-little-341572> accessed 25 June 2026.
[82] ibid.

troops of the Border Security Force of India.[83] Although this is still only an order, no actual implementation has yet occurred. But this action by the commission gives us optimism for the approval and implementation of a compensation mechanism in the NHRC system of our nation.

12.9. Procedural differences in Investigation or Inquiry Report

As per Section 19 of the National Human Rights Commission Act, 2009, the Bangladesh National Human Rights Commission is duty bound to furnish its report and recommendation to the Government or the concerned authority upon completion of the inquiry. After receiving the report from the Commission, the Government or the concerned authority shall give information within three months regarding any action which has been taken or is intended to be taken based on the recommendations made by the Commission. In cases where the Government or the concerned authority refuses to accept the recommendations made by the Commission or decides to adopt any different course of action in contrast to its recommendations, there is no obligation on the part of the Commission to approve of such action. The Commission has no right to force the government to comply with the recommendations and cannot take legal proceedings against the government either. But, despite having carried out an inquiry, the Commission ultimately gets into a situation where it has the report containing the finding and basic recommendation of the government. Following this is the unavoidable hurdle of the Home Ministry, where the letters of the Commission go unanswered or at best receive a brief response that an inquiry is already going on.[84]

However, in India, the Central Government is to give notification within three months, or any additional period allowed by the Commission to take action in response to the recommendations as provided for under section 19. Under the code, the government is required to respond to the follow-up recommendations made by the Commission. In this way, the Commission will be able to ensure that the government gets formal information about the recommendations.

Regarding the work of the Commission in Bangladesh, after carrying out investigations on the issue, the Commission has to submit a report to the Supreme Court within the period as prescribed in the citation as per section 13. However, there is no misleading about its binding

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[83] Muktadir Rashid, 'NHRC Asks Govt to Pay Tk 1 Lakh to Victim' (The New Age, 1 August 2022) <https://www.newagebd.net/article/177394/nhrc-asks-govt-to-pay-tk-1-lakh-to-victim> accessed 25 June 2026.
[84] N 68

nature or any natural method of implementation. While it has powers to investigate the allegations of human right violation, it cannot do anything beyond just investigating and making a report.[85]

However, the Indian laws have a separate process. As per section 37, where the Government feels the need to do so, the government can constitute one or more special investigation teams comprising such police officers as it thinks fit for the purpose of investigation and prosecution of offenses committed in violation of human rights, despite anything contained in any other law for the time being in force. This shows that the law enforcement agency shall be responsible to deal with the situation.

In the event that any individual or institution which was sent the recommendation by the Bangladeshi Commission does not submit the required report, or in the case where the Commission finds the action taken or proposed inadequate, the Commission, if it considers fit, should send the complete description of the problem to the President and the President shall make sure that the copies of this report are laid before the Parliament under section 14 of Bangladesh NHRC Act. Section 13 of the Bangladesh NHRC Act does not mention anything about the process of handling the proposal once it has been made to the Parliament, neither does it mention the time limit within which the Parliament should handle the issue. It is therefore a somewhat ambiguous section. In India, however, the Commission or the State Commission shall not inquire into any case more than one year from the date of occurrence of the alleged violation of human rights under section 36.

13. Findings of the Study

According to the comparative study of Bangladesh National Human Rights Commission Act, 2009 and India's Protection of Human Rights Act, 1993, there are some significant observations made, which include:

1. **Definition of Human Rights:** The BNHRC Act, 2009, gives a narrow definition of human rights that only encompasses such rights which are provided by the constitution and can be enforced through domestic laws, but in contrast to this, India's Act, 1993 provides a broad definition of human rights which includes such rights which pertain

[85] ibid

to life, liberty, equality, and dignity and which can be enforced through international covenants as well.

2. **Structure and Dominance of Executives:** Appointment committee of Bangladesh's NHRC comprises all executives, without even the slightest inclusion of an opposition member or civil society organization, which makes the process opaque and undemocratic. On the other hand, the selection committee of India's NHRC involves the opposition leader, and thus reduces executive dominance.
3. **Appointment and Qualification Criteria:** The NHRC act of Bangladesh does not provide any kind of qualification required in legal or human rights aspect for the chairman and members. However, the Protection of Human Rights Act 1993 of India specifies that both the chairman and the members should have served as chief justice of the supreme court or should be qualified in human rights issues. This lack of professional qualifications in Bangladesh undermines the credibility of the commission.
4. **Lack of Specific Judicial Measures:** Unlike India, where provisions for the setting up of specialized Human Rights Courts at district level, along with the provision of Special Public Prosecutors, exist, Bangladesh's NHRC does not have any such provision. The High Court Division, which is costly and procedurally unavailable to the aggrieved, thus creates a significant loophole in terms of enforcement.
5. **Failure to Make Rules:** Even after being statutorily empowered to make rules regarding important operational issues, such as the recruitment of mediators/conciliators and their salaries, Bangladesh's NHRC has been unable to do so since the time of its formation. India, on the other hand, has several such rules, such as NHRC (Procedure) Amendment Regulations, 1997, and NHRC Chairperson and Members (Salaries, Allowances and Other Conditions of Service) Rules, 1993.
6. **Capability in Compensation and Enforcement:** The NHRC of Bangladesh is capable of recommending financial help to the victims only in a temporary way without any kind of enforcement system. In contrast to this, the NHRC of India can recommend compensation to the Supreme Court or the High Courts and has been able to make more than Rs. 150 million in compensation for more than 9,000 cases in three decades, showing a clear difference in enforcement capacity.
7. **Financial Independence and Administrative Independence:** The NHRC of Bangladesh functions under the Law Ministry regarding administrative and financial matters unlike other constitutional bodies like Anti-Corruption Commission and

Election Commission, which have their own secretariat. In contrast to this, the NHRC of India, even being funded by the government, has more administrative independence in recruitment and expenditure.

8. **Powers to Investigate and Post-Investigation Procedure:** In Bangladesh, there is no legal duty imposed on the government to respond to the report of the NHRC, and no legal compulsion either for the government to take any action based on that report within an assigned time frame. However, the NHRC in India has the power to constitute Special Investigation Team (SIT) and require the government to give a response within three months.

14. Suggestions

With regard to the above observations, the following suggestions are made for the improvement of independence, effectiveness, and institutional credibility of the NHRC in Bangladesh in accordance with the Paris Principles and other international human rights standards:

1. **Enlarging the Conceptual Scope of Human Rights:** The concept of human rights under the NHRC Act of 2009 needs to be revised to correspond to international standards and include rights related to life, liberty, equality, and dignity as provided under the relevant international conventions adopted by Bangladesh, regardless of their enforceability under domestic law.
2. **Supplementary Amendments to the Selection Committee:** The selection committee needs to be changed to weaken the executive influence on the commission and include members from the opposition leader, civil societies, and human rights experts. Taking into account the comparative experiences, part of the committee needs to consist of members who represent nongovernmental organizations.
3. **Establishing Qualification Standards for Appointees:** The NHRC Act should be revised to incorporate qualification standards that will require that the Chairperson and the Members must possess legal expertise, experience as a judge, or knowledge of human rights law as required in India's framework as provided under the Protection of Human Rights Act of 1993.

4. **Establishment of Human Rights Courts:** Specialized Human Rights Courts should be established in each district using the same framework in India as provided under section 30 of the Protection of Human Rights Act of 1993. This should include special public prosecutors with at least seven years' experience in legal practice and would enable the victim to receive justice cheaply and quickly without relying on the High Court Division only.
5. **Instituting Mandatory Time Line for Rule-Making:** A binding time limit should be included in the NHRC Act for the Commission to formulate all its rules including the procedure for appointment, salaries and allowances, mediation and conciliation procedure, and inquiry procedure among others.
6. **Improving Compliance and Compensation Procedures:** The NHRC should have the authority to make applications to the High Court Division for compliance with the recommendations made by the Commission, and a statutory Victims' Compensation Fund should be set up to provide prompt and appropriate compensation to victims of violations. The government should be under an obligation to act on Commission's recommendations within three months, and cases of non-compliance may be brought before Parliament.
7. **Ensuring Financial and Administrative Independence:** An independent Secretariat should be provided to the NHRC which should be free from administrative dependency on the Executive through a separate budgetary allocation of funds for the NHRC by the national treasury after approval from Parliament. This is in line with the functioning pattern of other independent constitutional bodies of Bangladesh.
8. **Encouraging Legislative and Civil Society Cooperation:** The Commission should be able to reach out to NGOs, bar councils, educational institutions and civil society organizations to monitor human rights situation and develop policy recommendations. There should be an institutionalized consultative process between NHRC and parliamentary committees.

15. Concluding Remarks

Analysis of the two Acts related to protection of human rights of the above mentioned two countries reveals a significant deficiency in the institutions. Though India and Bangladesh are having common colonial legal background, dualist constitution and similar social economic

situation, NHRC in India has turned out to be more effective because of the availability of Specialized Human Rights Courts, an effective appointment procedure for the commission members, complete rule making procedures and effective enforcement procedures through accessing the superior courts directly. However, in case of Bangladesh, there is lack of independent appointment system, no compulsory professional qualifications for the commissioners, inability of the commission to make necessary rules for its operations, absence of specialized human rights courts and a recommendatory provision regarding compensation. All these factors have rendered the institution of BNHRC ineffective and questionable in regard to its Paris Principle and other human rights instruments like ICCPR and ICESCR. However, it must be recognized that BNHRC faces difficult socio-political conditions, and it seems as though the institution is aware of this reality. The work done by BNHRC on business and human rights under the UN Guiding Principles, its call for more inclusive National Action Plans and gradual enlargement of its mandate can be seen as evidence of changeability. Yet, good intentions are not enough.

What needs to be done is to introduce amendments to NHRC Act, ensure judicial cooperation for the direct enforcement of the recommendations of BNHRC and create a political will not to interfere with the activities of the Commission. Equally significant is the development of an accountability culture where government authorities react positively to BNHRC recommendations. Overall, the strength of the National Human Rights Institutions cannot be assessed based only on the legislation of their establishment, but also based on the willpower, resources and political environment. Bangladesh has a good legal framework and international obligations to establish an independent and effective human rights commission.