

Right To Education In Bangladesh: Constitutional Interpretation With Practical Challenges

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Abstract - The right to compulsory education is a constitutional promise in Bangladesh, enshrined in its foundational legal framework and supported by international commitments. This article examines the provisions of Bangladesh Constitution, 1972 including both constitutional and statutory interpretations of the right to education, the jurisprudential character of the provisions, and the realistic challenges encountered in its implementation. The discourse also investigates whether the right to education qualifies as a fundamental right, analyzes judicial trends, and evaluates the effectiveness of state mechanisms and international obligations in promoting educational equity and accessibility. It is essential was one of the proclaimed aims of the framers of the Constitution to ensure socialist, democratic and secular society free from exploitation and ensured the freedom and justice. In order to realize the spirit and make the dreams of the architects of Bangladesh come true, especial emphasis must be given on the stricter sense of quality education by placing the same not in an ornamental position in policy issue, but in a position of fundamental right protected by the supreme law of the country with a view to encountering the challenges of the century.

Index Terms - Right to Education, Bangladesh Constitution, Fundamental Principles of State Policy, Judicial Interpretation, Educational Equity & Implementation Challenges.

I. INTRODUCTION

In practical point of view, education is the formal procedure of exchanging knowledge, information and wisdom in standard instruction, especially at any formal institution e.g. school or university. A process of facilitating learning, or acquisition of knowledge, skills, values, beliefs and habits.¹ In modern pedagogy, education is a discipline concerned with the skills of teaching and learning by exercise and training formally in formal institution e.g. schools, colleges, or school-like institutions as opposed to various non-formal and informal mechanism of socialization. Bangladesh achieved tremendous advancement in education sector. But dropout rate is also high. Right to education is a globally recognized human right. The privileges entrusted with this right exercised by the holder which available throughout the world and legally enforceable in line with the constitutional and legal framework². Education enlightens the human soul and contribute spiritual gain enabling one progress in every aspects of life. It is normally uttered that education is the foundation of a nation. It is a continuous process of easing learning, acquiring knowledge, techniques, skills and moral values that are essential for human resource development. The light of education is one of the main tools of removing ignorance and darkness from the society. Alike every nation of the world, Bangladesh frames the structure of educational system³ as such the future generation might receive quality education. Education is regarded as the equipment of nation building that allows a country to place in a competitive and advancing position in every aspect of globalization.

II. METHODOLOGY OF THE RESEARCH

This research applies a qualitative and principled methodology to testify the constitutional interpretation, essentials and practical challenges associated with the right to education in Bangladesh. It involves critical analysis of the constitutional text, particularly Articles 15, 17, and 32, alongside relevant judicial decisions and interpretive doctrines such as the principle of harmonious construction and public interest litigation (PIL). The research draws on primary legal sources including the Constitution of Bangladesh, statutory provisions, and landmark Supreme Court judgments. Secondary sources such as academic articles, government reports, policy

¹ UNESCO Institute for Statistics, International Standard Classification of Education ISCED 2011 (UNESCO 2012) 17.

² For a detailed overview of the legal framework of Bangladesh, see Government of Bangladesh, *Legal and Judicial Reform in Bangladesh (2024)* Ministry of Law, Justice and Parliamentary Affairs.

³ Ministry of Education, *National Education Policy 2010* (Government of the People's Republic of Bangladesh 2010) <http://www.moedu.gov.bd> accessed 22 July 2025.

documents (e.g., National Education Policy 2010), and international treaties—like the UDHR, ICESCR, and CRC—are used to contextualize Bangladesh’s obligations and assess compliance with international standards. The study further adopts a comparative perspective by evaluating the evolving status of education as a justiciable right through judicial activism. Limitations include the non-empirical nature of the analysis and reliance on secondary data for practical implementation challenges. Ultimately, the methodology facilitates a normative and constitutional critique, enabling the identification of gaps between legal mandates and educational realities in Bangladesh.

III. RIGHT TO EDUCATION AS CONSTITUTIONAL POINT OF VIEW

Right to education has been included in the Constitution of the Bangladesh by the framers of it in 1972. But in the constitutional framework⁴, education (right to education) has been included in the nature of a Fundamental Principle of State Policy (FPSP). While the Constitution does not include education under the enforceable part of the fundamental rights, it unequivocally underscores the State's solemn duty to guarantee education in an unfettered way. The right to education is embodied in part-ii of the Constitution.⁵ The Constitution of Bangladesh recognizes education as both a fundamental right and a key driver of national progress. Article 17 obliges the State to establish a uniform, inclusive, and mass-oriented education system, ensuring free and compulsory education for children at that level prescribed by law.⁶ It further mandates the eradication of illiteracy within a defined timeframe and calls for aligning education with societal needs to foster informed, responsible citizens. In parallel, Article 15 includes education one of the basic necessities of life alongside food, clothing, shelter, and healthcare by emphasizing its role in upholding human dignity and promoting social justice.⁷ Together, these provisions reflect a constitutional vision where education is not merely a service, but a strategic instrument for empowerment, equitable development, and national resilience. By embedding education within the State’s core responsibilities, the framers underscored its centrality to building a just, sovereign, and democratic society rooted in human development. It is one of the duties of modern statehood to strengthen its nation educationally, ethically, and economically. As trained and skilled people are basic resources for economic growth of a country. In order to increase the productivity and prosperity of a country educational advancement, medical facility and social safety should be ensured. In the Constitution, the issue of education has been included by the framers of the Constitution as the basic necessity of the nation. But this necessity is most important for a safe and meaningful life. Education is not less importance than food, shelter or anything else in human life. The founding fathers of the Constitution have given high stress in education like other necessities for building a prosperous nation. More meaningfully improving the rate of education is a foremost concern for leading the nation in a progressive future. Because of this spirit triggered by the constitutional mandates and governmental initiatives, a larger number of children and adolescents are enrolled in pre-primary, primary and secondary education in Bangladesh than ever before⁸. Education in tertiary level is in a new height in the country.

IV. CHALLENGES AND INITIATIVES FOR PROMOTING MASS EDUCATION AND LITERACY IN BANGLADESH

In Bangladesh the literacy rate is not up to the marks. For a complete advancement as a nation, quality mass-education is a considerable issue in any criteria. Uniformity in educational system is helpful for achieving the targets and goals of mass education as per the international requirements.⁹ Considering the socio-economic condition of a community, the state can take adequate initiatives for arrangement of free, participatory, and compulsory education to children in a certain level. As a democratic and welfare state, Bangladesh has own policy for free, fair, and compulsory elementary and secondary education. The strategies, targets and issues are included in the National Education Policy 2010. Moreover, stipends for the students of poor and families with marginal income in primary and secondary level are allowed by the government in its national budget¹⁰. Increasing the rate of female education is a challenge for Bangladesh. The government has taken people friendly steps with special concern like providing stipends and scholarship in primary, secondary, and tertiary level as well as ensuring health and safety measures to the adolescents and female students. Those are effective and significant initiatives for upgrading educational standard and rate of literacy. For human resource development and advancement in

⁴ Ridwanul Hoque, *Constitutional Theories and the Bangladesh Constitution* (Dhaka University Law Journal 2015) 23.

⁵ For more details, see Article 17 and Article 15 of the Constitution of Bangladesh, 1972

⁶ Art. 17 of the Constitution of the People’s Republic of Bangladesh, 1972.

⁷ *Ibid*, art.15

⁸ *Constitution of the People’s Republic of Bangladesh 1972*, art 17; Ministry of Education, *Bangladesh Education Statistics 2023* (BANBEIS, Government of Bangladesh 2024).

⁹ Ministry of Primary and Mass Education (MoPME), *National Plan of Action for Education for All: 2015–2025* (Government of the People’s Republic of Bangladesh 2015).

¹⁰ Ministry of Finance, *Budget Speech 2023–24* (Government of Bangladesh 2024) 41.

financial sectors Bangladesh needs to train up her citizenry. With the passage of time and due to technological development throughout the world, facilitation with modern amenities in educational sector like communication technology, innovation, production and creation of knowledge, establishing and developing infrastructural development is a crying need. Removing and reducing illiteracy is a precondition for modern civilization.

IV. EDUCATION AS A LEGAL RIGHT OF THE CITIZENS OF BANGLADESH

Salmond defines right as an interest recognized and protected by a rule of right. It is an interest, respect for which is a duty, and violation or disregard of which is a wrong.¹¹ Regarding the importance of education, it can be said that education has been included in the Constitutional framework of Bangladesh as of a legitimate right. Although, the provisions regarding compulsory education have been inserted in Part II with referral of Fundamental Principles of state Policy, but enshrined as the precondition of achieving the aims and objective of the State as reclaimed in the Preamble¹² of the Constitution. As a result, getting quality education is a legitimate expectation of the citizenry of Bangladesh. Article 8(2) of the Constitution of Bangladesh confers upon the principles enshrined in Part II the status of fundamental principles of State policy,¹³ affirming their foundational role in the constitutional and legal framework of the Republic. These principles are claimed to be essential to the administration of the State and are to be applied by the Parliament in the enactment of laws. Furthermore, they serve as interpretative aids in construing the provisions of the Constitution and other statutory instruments. Although non-justiciable, these directives possess normative force, forming the ideological basis for State action and serving as guiding obligations for both public authorities and citizens in the pursuit of national development and constitutional fidelity.

V. RIGHT TO EDUCATION AS A CONSTITUTIONAL MANDATE

Compulsory and free education is a constitutional mandate that made the state bound to maintain with highest spirit. Even when making laws of the state the principles, including the provisions of article 17 and 15 will be regarded as the foundation of the state and of its citizen. Principles of free & compulsory education shall be inalienable right of the people of Bangladesh with governance of fair educational system.¹⁴ Now it can be summarized that it is the obligation and objectives of the framers of Bangladesh for ensuring compulsory and free education for mass-people in a certain level. Here is an implication in the last part of the Article that the principles included in part-II are not judicially enforceable. That means no one will be directly be allowed to activate by lodging a writ petition under Article 102 (2) for enforcement of Part-II including right to education as prescribed by Article 44 for any infringement of fundamental rights. But there is no barrier as to filing petition claiming remedy if there is any strict infringement or governmental violation of the provisions of article 17 and 15 that is principle of free and compulsory education and provisions of basic necessities. As article 7 of the Constitution refers to the supremacy of the Constitution, it is regarded as the unequivocal representation of the populace's desires, constitution is the supreme law of the state. Moreover, if any law is inconsistent with the provisions of the Constitution that other law shall, to the extent of the inconsistency, be void.¹⁵ In addition to that education is recognized as a legal and public right throughout Bangladesh. Because of the state has promoted various enactments and institutional developments making education in different stages compulsory and facilitates education in every level in order to building the nation for progress in eternity.

VI. RIGHT TO EDUCATION AS INTERNATIONAL COMMITMENT OF BANGLADESH

The right to education is a universally accepted human right that has been affirmed by many international legal conventions and treaties. As a member of developing countries and signatory to several international human rights treaties encompassing educational right, Bangladesh bears both a moral and legal responsibility to uphold and implement educational principles consistent with international standards. Domestically, the constitutional mandate¹⁶ guarantees free, fair and mandatory education for all children. However, to transform this constitutional guarantee into a lived reality rather than a mere rhetorical commitment, it is incumbent upon the Ministry of Education to adopt substantive measures¹⁷. These must include provisions that enable children, particularly those from economically disadvantaged families, to attend school without compromising household

¹¹ John Salmond, *Jurisprudence* (12th edn, Sweet & Maxwell 1966) 219

¹² One of the unchangeable basic structures of the Constitution of Bangladesh. For more details, see *Anwar Hossain Chowdhury v. Bangladesh*, 41 DLR (AD) 165 (1989).

¹³ For more details, see art.8-25 of the Constitution of Bangladesh, 1972.

¹⁴ Article 8(2) Part II – *Fundamental Principles of State Policy* of the Constitution

¹⁵ Article 7(2) of the Constitution of the People's Republic of Bangladesh.

¹⁶ Article 17 of the Constitution, 1972

¹⁷ *Ain-O-Shalish Kendra v. Bangladesh*, (2011), 63 DLR 95, as cited: Islam, Mahmudul, (2017), *Constitutional Laws of Bangladesh*, Mullick Brothers, 3rd Ed. P. 73.

food security or income. Ensuring financial support or compensation to such families is essential so that children's attendance in the school does not reduce a family's income-earning capacity. Bangladesh's commitment to the right to education is reflected in its adherence to a range of foundational international human rights instruments that collectively establish education as a fundamental and enforceable entitlement. These legal frameworks, adopted through multilateral consensus over several decades, recognize the essential role of education in promoting human dignity, equality, and social development. As a State Party to key global treaties, Bangladesh is bound to ensure the accessibility, availability, acceptability, and adaptability of education for all segments of the population, particularly children. In addition to treaty-based obligations, Bangladesh is also aligned with global policy frameworks that articulate a shared vision for inclusive, equitable, and quality education, undertaking the necessity of lifelong learning opportunities as a cornerstone of sustainable development. Bangladesh's commitment to the right to education is reflected in its adherence to a range of foundational international human rights instruments that collectively establish education as a fundamental and enforceable entitlement.¹⁸ These legal frameworks, adopted through multilateral consensus over several decades, recognize the essential role of education in promoting human dignity, equality, and social development. As a State Party to key global treaties, Bangladesh is bound to ensure the accessibility, availability, acceptability, and adaptability of education for all segments of the population, particularly children. In addition to treaty-based obligations, Bangladesh is also aligned with global policy frameworks that articulate a shared vision for inclusive, equitable, and quality education, underscoring the necessity of lifelong learning opportunities as an integral part of sustainable development. Complementing this, United Nations General Assembly Resolution 71/313 calls for robust statistical indicators to monitor progress in SDG implementation, including education. Together, these instruments create a framework of political, moral, and quasi-legal obligations requiring Bangladesh to harmonize its national educational policies with global commitments and standards.

VII. WHETHER RIGHT TO EDUCATION IS A FUNDAMENTAL RIGHT IN BANGLADESH

Constitution as the Supreme Law of the Republic right to education got special importance for incorporating the same in its objective clauses. Moreover, the Constitution is the highest law that guides how the government makes laws, enforces them, and delivers justice. It clearly includes the right to education, treating it as equally important as other basic rights. Every individual possesses inherent rights essential for personal growth and self-fulfillment, which must be respected and protected under all circumstances.¹⁹ When those inalienable human rights are stated and safeguarded in the constitutional force and mechanism is known as fundamental rights. The infringement, violation or any threat to violate those rights emerge a right to adjudicate under judicial review²⁰ resulting with the proper remedies. Some rights have been incorporated as fundamental rights. The Constitution of Bangladesh renders any pre-existing law null to the extent that it contradicts the fundamental rights enshrined in its designated section and prohibits the enactment of future laws that would infringe upon those rights. Although the right to education is not expressly listed among the guaranteed fundamental rights, it has been recognized by the judiciary as inherently linked to the right to life.²¹ Through judicial interpretation, the Supreme Court has broadened the meaning of the right to life to include access to essential conditions that uphold human dignity—among them, education. This interpretative development underscores education as a necessary component of a life lived with dignity. Fundamental rights are but means to achieve the goals indicated in the principles of state policy which are supplementary to each other...²² The doctrine of harmonious construction regarding the interpretation of statutes²³ allows courts to interpret fundamental rights in light of state policy directives.

VIII. RIGHT TO EDUCATION AND FUNDAMENTAL PRINCIPLES OF STATE POLICY (FPSP)

The principles outlined in Part-II of the Constitution serve as the basic values for the State's governance and spirit. They are intended to influence the formulation of legislation of Parliament, assist in interpreting the Constitution and other statutes, and guide the actions of both state institutions and citizens as the Pole Star. However, these principles do not carry legal force in courts and cannot be directly enforced through judicial proceedings.²⁴ The

¹⁸ UDHR 1948, art 26; ICESCR 1966, arts 13–14; CRC 1989, arts 28–29; UNGA Res 70/1 (21 October 2015) UN Doc A/RES/70/1, Goal 4; UNGA Res 71/313 (6 July 2017) UN Doc A/RES/71/313.

¹⁹ Kamal, Mustafa, Justice, (2001), Bangladesh Constitution: Trends and Issues, Dhaka University Publications Bureau, p.iv.

²⁰ **Judicial review** in Bangladesh refers to the power of the higher judiciary—primarily the **High Court Division of the Supreme Court**—to examine the constitutionality of laws and executive actions. It acts as a safeguard to ensure that legislative and executive branches do not exceed their constitutional limits. For details, see Article-7(2), 26(1-2), 44 and 102 of the constitution of the People's Republic of Bangladesh.

²¹ Article 26-47A of the Constitution of the People's Republic of Bangladesh, 1972

²² *Dr. Mohiuddin Farooque v Bangladesh* [1997] 49 DLR (AD) 1, 56.

²³ Akhtaruzzaman, Md. (2009) Interpretation of Law and the General Clauses Act (Dhaka-1000).

²⁴ For more details, see art. 8 of the Constitution

State is bound by constitutional mandate to ensure the establishment of an education system that is universal, inclusive, and integrated. This includes ensuring free and compulsory education for all children up to a level specified by law.²⁵ The State is further obligated to align educational initiatives with the evolving needs of society, to cultivate a skilled and responsible citizenry, and to eradicate illiteracy within a legally determined timeframe. These directives underscore the State's broader responsibility to advance public welfare and secure conditions necessary for a dignified and equitable life, including access to essential services such as education and healthcare.²⁶ Although the provisions in Part II of the Constitution are non-justiciable, they are not merely aspirational. Judicial interpretation has affirmed that these principles must inform the understanding of enforceable rights and should not be disregarded.²⁷ Through the doctrine of harmonious construction, the Supreme Court has emphasized the need to interpret the Directive Principles and Fundamental Rights in a manner that allows both to function cohesively. Fundamental Rights, while legally enforceable, are not ends in themselves but tools to advance the broader socio-economic aims embedded in the Directive Principles.²⁸ Thus, constitutional interpretation must reflect an integrated approach, where rights are shaped by the State's policy commitments to social justice, equity, and human development.

IX. RIGHT TO EDUCATION IN THE PREAMBLE AND BASIC STRUCTURE, CONSTITUTIONAL MANDATE

Bangladesh as an Independent Republic has a commitment to build the nation through education and moral values. The Preamble to the Constitution affirms the State's fundamental aim of establishing a socialist society through democratic means. This envisioned society must be free from all forms of exploitation. It is to be founded on the rule of law and the protection of fundamental human rights and freedoms. Equality and justice—political, economic, and social—must be ensured for all citizens.²⁹ As an independent republic, Bangladesh is constitutionally committed to nation-building through the promotion of education and moral values, viewing these as foundational to achieving an equitable and just society. The Preamble to the Constitution articulates this vision by affirming the State's fundamental aim to establish, through democratic means, a socialist society grounded in the rule of law, fundamental rights, and justice in all spheres—political, economic, and social. A state-constitution is a sacred document to be honored and followed by all citizens and foreigners living under its jurisdiction. The constitutional framework envisioned constitution as the Supreme Law of the state which provides guidance to all other branches of law of the country.³⁰ Within this constitutional framework, the right to education, though not explicitly enforceable like fundamental rights, it is embedded as a core directive under Article 17 of the constitution by guiding the development of laws and policies related to human development through social justice. As such, education is not merely a policy objective but a constitutionally recognized imperative that informs legal, administrative, and actions by judiciary across the legislative paradigm of Bangladesh. Part-II of the constitution contains inter alia such valuable principle which adorns the Republic as democratic country in which fundamental human rights, a balanced freedom in every aspect, respect for the dignity of mankind, and worth of human being shall be guaranteed. The national Parliament, as the creation of this Constitution and all kinds of powers flow from this Article 7 and as such no Parliament can amend it.³¹ The Preamble and Article 7 envisage supremacy of the Constitution.³² Under the constitutional mandate of Bangladesh, the right to education is deeply rooted as one of the basic structures of the Constitution, which collectively affirm the Republic's commitment to human rights, education right, and right to life, liberty & dignity of every individual. These principles form part of the fundamental structure of the Constitution, which Parliament is bound to uphold and cannot amend in a manner that undermines its core values, as established by basic provisions of the Constitution. Both the Preamble and Article 7, ensures that all state actions—including legislation and governance—must align with these foundational commitments. Thus, ensuring education as of right emerges as a basic responsibility of Bangladesh which is essential for realizing the dignity, equality, and democratic participation of its citizens. If any enactment is inconsistent with Part-III of the Constitution that other enactment shall, to the extent of such inconsistency and discrepancy shall be void. The Preamble and Article 7

²⁵ Islam, Mahmudul, (2017), *Constitutional Laws of Bangladesh*, Mullick Brothers, 3rd Ed. P.-54.

²⁶ *Re Kerala Education Bill*, AIR 1958 SC 995

²⁷ Akhtaruzzaman, Md. (2009) *Interpretation of Law and the General Clauses Act* (Dhaka-1000).

²⁸ *Dr. Mohiuddin Farooque v Bangladesh* [1997] 49 DLR (AD) 1, 56.

²⁹ The Preamble of the Constitution of Bangladesh, 1972

³⁰ Khan, Md. Maimul Ahsan, Dr, (2012), *Constitutional Amendment: A Jurisprudential Analysis of Political Rhetoric, Ideological Dichotomies, and Secular or Religious Adventurism*, Dhaka University Law Journal Vol.23, No.2, Dece. 2021 p. 39

³¹ Article 142 of the Constitution of Bangladesh

³² Rahman, Latifur, J. (*The Constitution of The People's Republic of Bangladesh with Comments and Case-Laws*, First Edition-2004, p.36

inter alia has been held as basic structure of the Constitution and declared not amendable.³³ This entrenched supremacy ensures that all legal and governmental actions must conform to constitutional principles, including those derived from the Preamble. The Preamble and Article 7 have been judicially recognized as part of the Constitution's basic structure, rendering them beyond the scope of amendment by Parliament.³⁴ Within this framework, the State's responsibility to promote education—implied through the constitutional vision of justice, dignity, and equality—becomes a binding mandate that cannot be diluted through ordinary legislative processes.

X. RIGHT TO EDUCATION AND RIGHT TO LIFE

The distinction between right to education and right to life has been synchronized under the constitution with the gradual explanation from the Apex court of Bangladesh. Article 32 of the Constitution provides that no person shall be deprived of life. Right to life is inalienably connected with the right of Education. The word 'life' does not mean nor can it be restricted only to the vegetative or animal life or mere existence from conception to death.³⁵ Rather life includes all such amenities and facilities which a person born in a free country is entitled to enjoy.³⁶ Meaningful and a 'life' worth living is an inalienable fundamental right. Right to education is one of the main elements to lead a meaningful life and to prosper with dignity. The right to education within constitutional purview has increasingly been recognized as intrinsic to the enforceable right to life under Article 32. The Supreme Court has interpreted the term 'life' not in a narrow, biological sense but as encompassing all essential conditions necessary for living with dignity and meaning. This expanded interpretation aligns with international human rights jurisprudence and affirms that education is a fundamental enabler of personal development, social participation, and economic empowerment. As such, the right to education is no longer seen as merely aspirational but as a vital component of a life worth living, protected implicitly under Article 32. This judicial evolution has effectively bridged the constitutional divide between non-justiciable state principles and enforceable rights, making the State bound to facilitate education more compelling and grounded in the right to life. Therefore, ensuring access to education is not only a policy directive but a constitutional necessity for protecting human dignity and fulfilling the broader promise of fundamental rights.

XI. JUDICIAL ACTIVISM & PIL AS MECHANISM FOR ENFORCING RIGHT TO EDUCATION

The enforcement of the right to education in Bangladesh, while primarily grounded in constitutional interpretation, has significantly evolved through the judiciary's expansion of procedural access via the doctrines of *locus standi* and public interest litigation (PIL). Traditionally restricted to directly aggrieved individuals, the scope of *locus standi* under Article 102 of the Constitution has been judicially broadened to allow individuals and organizations to approach the court for the redress of public wrongs, even in the absence of personal injury. In many landmark cases the Appellate Division recognized that a person or group acting bona fide and without personal gain has 'sufficient interest'³⁷ to seek judicial remedy, thereby legitimizing PIL as a mechanism to enforce socio-economic rights such as education. This jurisprudential development ensures that violations of the right to education—whether by state inaction, discriminatory policies, or failure to implement statutory mandates—can be judicially reviewed under Article 102(1) and 102(2), read in conjunction with Articles 7 and 44. As confirmed in many cases³⁸, the High Court Division possesses the authority to quash actions taken without lawful authority or in contravention of constitutional provisions.³⁹ Consequently, judicial review and PIL serve not merely as legal tools but as constitutional safeguards ensuring that the right to education, though articulated in the Constitution, receives effective recognition and protection within the broader constitutional mandate of ensuring justice, equality, and human dignity.

XII. PRACTICAL CHALLENGES ENSURE THE RIGHT TO EDUCATION VIA CONSTITUTIONAL MANDATES

Despite the constitutional articulation of the right to education in the Constitution of Bangladesh and the broader moral force of the state objectives⁴⁰, the practical realization of this right faces multifaceted challenges. One of the primary impediments is the non-justiciability of Part II of the Constitution, which renders the provisions related to education unenforceable through direct legal action. This constitutional limitation, though partially mitigated through judicial creativity—such as interpreting the right to education as intrinsic to the right to life

³³ *Anwer Hussain Chowdhury v. Bangladesh*, 41 DLR (AD) 165 (popularly known as the 8th Amendment Case)

³⁴ Rahman, Mahbubur Muhammad, *The Dhaka University Studies*, Part-F Vol. XVII (1):143-178, June, 2006.

³⁵ *Ibid.*

³⁶ *Ms. Shehla Zia and others vs. WAPDA* (PLD 1994 Supreme Court 693).

³⁷ *Dr. Mohiuddin Farooque vs. Bangladesh*, 49 DLR (1997) (AD) 1.

³⁸ *Kudrat-E-Elahi v. Bangladesh*, 44 DLR (AD) 319 (439 of MI).

³⁹ *Nasiruddin v. Secretary, LGRD*, 51 DLR (AD) 213.

⁴⁰ Fundamental Principles of State Policy (Part-II) of the Constitution

under Article 32—still constrains systemic accountability and resource allocation. Moreover, disparities in access to education persist across urban and rural regions, genders, and socio-economic strata, despite commendable policy initiatives like the National Education Policy 2010 and stipends for disadvantaged groups. Structural inadequacies⁴¹—such as insufficient infrastructure, lack of trained teachers, high dropout rates, and limited oversight in private and madrasa education systems—further exacerbate the gap between constitutional aspirations and educational realities. Additionally, fiscal constraints, administrative inefficiencies, and competing policy priorities often dilute the effectiveness of education-related programs.⁴² Thus, while the constitutional and international commitments of Bangladesh strongly affirm the State’s duty to ensure universal education, practical enforcement remains contingent upon harmonizing legal mandates with institutional reforms, increased public investment, and sustained political will.

XIII. RECOMMENDATIONS

After examining the issues above, in order to address the operational impediments in enforcing the right to education within the constitutional framework of Bangladesh, several actionable measures are recommended:

Firstly, although Article 17 of the Constitution categorizes education as a Fundamental Principle of State Policy, judicial interpretation should continue to integrate this provision right to life of Article 32. Thereby treating education as indispensable to the right to life and human dignity. It is noteworthy that the Supreme Court’s evolving jurisprudence permits this through the doctrine of harmonious construction, enabling courts to read Part II in conjunction with Part III.

Secondly, legislative reform is needed to elevate the constitutional mandate of education from aspirational to enforceable. A constitutional amendment or the enactment of a framework law may codify the right to education as a justiciable right, establishing minimum core obligations and ensuring budgetary allocations for universal access.⁴³

Thirdly, Bangladesh must institutionalize public interest litigation as a viable mechanism for enforcement of the educational rights, particularly for marginalized communities.⁴⁴ Judicial activism, as illustrated in *Dr Mohiuddin Farooque v Bangladesh*⁴⁵, can empower civil society and promote accountability when the State fails to fulfill its educational obligations.

Fourthly, the State must align domestic education policies with its international obligations which mandate accessible, acceptable, adaptable, and quality education.⁴⁶ This requires targeted investment in rural and disadvantaged areas, expansion of teacher training programs, and modernization of curricula in both mainstream and madrasa systems.

Lastly, political commitment is vital. Constitutional promises must be matched by sustained resource allocation, transparency, and participatory governance to ensure that education becomes not merely a policy objective, but a lived right for every citizen.

XIV. CONCLUSION

The right to education in Bangladesh, though constitutionally recognized under Part II as a State Policy, strategically occupies a unique and evolving position within the country’s legal framework. While its non-justiciable character under Article 8(2) ostensibly limits direct legal enforcement, judicial activism—most notably through Action for public good and the doctrine of harmonious construction—has progressively enhanced its enforceability by aligning it with justiciable rights such as the right to life under Article 32. The Constitution, as the supreme law of the Republic under Article 7(2), imposes a binding obligation upon the State to act in accordance with its core values as articulated in the Preamble and the FPSPs, including the provision of free and compulsory education. Judicial pronouncements have increasingly recognized education not merely as a moral aspiration but as a prerequisite to human dignity, social justice, and meaningful democratic participation. As such, constitutional interpretation in Bangladesh has matured toward acknowledging that the right to education constitutes a core component of the Constitution’s basic structure and is essential for the effective enforcement of fundamental human rights. However, the practical implementation of this constitutional guarantee remains fraught with structural, administrative, and fiscal challenges. Disparities in educational access and quality—particularly affecting rural, impoverished, and marginalized communities—highlight a disjunction between

⁴¹ Transparency International Bangladesh, Corruption, COVID-19 and the Cost of Education (TIB, Sep 2021)

⁴² Tasnimul Islam, “Addressing educational disparities in Bangladesh” *The Financial Express* (Dhaka, 29 Dec 2024), <https://surli.cc/ugsqzj> accessed on January, 15, 2025.

⁴³ *Ibid* art 8(2).

⁴⁴ *Dr Mohiuddin Farooque v Bangladesh* (1997) 17 BLD (AD) 1.

⁴⁵ *Ibid*

⁴⁶ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3, arts 13–14.

constitutional promises and lived realities. Despite commendable policy initiatives such as the National Education Policy 2010, government stipends, and increased educational infrastructure, the lack of a legally binding framework has hindered systematic enforcement and accountability. To bridge this normative and operational gap, the integration of international legal commitments—including those under the UDHR, ICESCR, and CRC—must inform and strengthen domestic policy measures. Moreover, legislative reforms that either elevate the right to education to a justiciable status or codify it through comprehensive statutory enactments could establish enforceable minimum core obligations on the State. Institutional mechanisms such as judicial review, PIL, and rights-based budgeting must also be harnessed to translate constitutional ideals into tangible guarantees. In essence, the right to education in Bangladesh must be re-conceptualized not as a benevolent promise but as a *constitutionally binding obligation*—one that is essential to safeguarding human dignity, advancing equality, and fulfilling the broader objectives of democratic governance. Upholding this right requires not only legal interpretation and policy commitment but a sustained political will to transform constitutional mandates into a universally accessible and equitable educational reality.

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