

Legal and Policy Framework for Poverty Reduction in Bangladesh: An International Human Rights Law Perspective

Md. Jobair Alam*

1. Introduction

It is globally accepted that poverty inhibits not only human and social development, but also severely restricts a citizen's ability to enforce his or her guaranteed fundamental rights, which in essence, compromises sustainable development in more ways than one. Around 31% ¹of the total population of Bangladesh, most of which are women, live under the poverty line.² In addition to the historical reasons particular to Bangladesh in terms of inadequate policies to a) address poverty, b) efficient management of resources, as well as the consistent failure on the part of the government to tackle violation of human rights and fundamental freedoms, the dearth of knowledge and conceptual clarity amongst policy makers and successive governments in Bangladesh regarding the connection between poverty and human rights is acute. This has led to weak and in some cases, no use or implementation of international human rights instruments to address poverty reduction.

The present study focuses on using the international human rights instruments to which obligations, Bangladesh is a party, to deal with poverty reduction. To conceptualise the notions of poverty, the study argues that it is a violation of human right. The object is to assess, how far the legal and policy regime of Bangladesh, is reflective of poverty as violation of human rights and then to analyse the existing scenario of poverty in the light of that frameworks. It is also cogitated that whether poverty can be reduced to a substantial degree, if the obligations under the international human rights instruments are adequately and satisfactorily implemented.

* Lecturer, Department of Law, University of Dhaka.

¹ UNdata. *MDGs Database*, United Nations Statistics Division, available at: <<http://data.un.org/Data.aspx?d=MDG&f=seriesRowID%3A581>> last accessed on 24 August 2014.

² National estimates of the percentage of the population falling below the poverty line are based on surveys of sub-groups, with the results weighted by the number of people in each group. Definitions of poverty vary considerably among nations. For example, rich nations generally employ more generous standards of poverty than poor nations. See, *The World Factbook*, Central Intelligence Agency, USA, available at: <<https://www.cia.gov/library/publications/the-world-factbook/fields/2046.html>> last accessed on 8 August 2014.

2. Conceptualising the Notions of Poverty and Human Rights

Poverty and human rights are interconnected³ although this is very difficult to conceptualise them in an interconnected way. This is because a) there are significant overlaps and common objectives between them; and b) they are in fact distinct through intersecting endeavors in many cases. This conceptualisation would be smooth if the concept of poverty were a clear, unambiguous and definite one. But, there is an obvious paradox in defining poverty. Most definitions of poverty are arbitrary and relative, even if they are based on statistical analyses.⁴ Most definitions are drawn up at bottom level.⁵ Many people are clustered on or near poverty lines, so slight changes in the definition can remove or add people to the inventories of those who are poor.⁶ Again more lucidly, poverty is a specific, local, contextual experience.⁷ Poverty is experienced at the local level, in a specific context, in a specific place, in a specific interaction.⁸ Human rights, on the other hand, while congregating with poverty issue, various unresolved questions may arise. The major question is, whether the concept is a moral or a legal one.⁹

However, in spite of having such ambiguities while linking poverty with human rights, it is a practical necessity to remove this gap. Because, the indivisibility, interdependence and interrelatedness of human rights is

³ Thomas Pogge, 'Poverty and Human Rights', (2002). available at: <[http://www2.ohchr.org/english/issues/poverty/expert/docs/Thomas Pogge Summary.pdf](http://www2.ohchr.org/english/issues/poverty/expert/docs/Thomas%20Pogge%20Summary.pdf)>, last accessed on 24 August 2014.

⁴ Most of the definitions made are based on random choice or personal/organizational whim, rather than any reason or system. Unrestrained and autocratic use of authority is visible. There is no participation of the stakeholder in defining the term. No special protection is provided for comparatively vulnerable and marginalized groups, available at, <[www.ngfl-cymru.org.uk/vtc/ngfl/sociology/poverty definitions.ppt](http://www.ngfl-cymru.org.uk/vtc/ngfl/sociology/poverty%20definitions.ppt)>, last accessed on 24 August 2014.

⁵ Ibid.

⁶ Ibid.

⁷ OHCHR. 'Human Rights and Poverty Reduction: A Conceptual Framework', (2004) available at: <<http://www.ohchr.org/Documents/Publications/PovertyReductionen.pdf>>, last accessed on 24 August 2014.

⁸ D. Narayan et al, *Can Anyone Hear Us? : Voices of the Poor* (New York, published for the World Bank by Oxford University Press, 2000) Volume 1, 230.

⁹ When the analysis of poverty is narrowed to extreme poverty, Arjun Sengupta argues that there is a legally binding obligation upon the states to end poverty. According to him, the international community will be more willing to accept this binding obligation if there is more manageable number of people, who are clearly and demonstrably most vulnerable to suffering from all forms of deprivation. He strengthens his position deducing that the denials related to extreme poverty are easily identified with already recognized human rights law and that poverty eradication procedures would transmute as customary law. See, UN Doc: E/CN.4/2006/43, 2 March, 2006, 41.

often recalled and reiterated in human rights instruments¹⁰ and by human rights bodies, although frequently disregarded in practice. The interdependence of all human rights is unequivocal when considering the situation of persons living in poverty, which are both a cause and a consequence of a range of mutually reinforcing human rights violations.¹¹

2.1 The Concept of Poverty

The discourse of poverty is not a new one rather anterior. But, poverty of our time is unlike that of any other. This is unsteady, for example, human poverty is more than income poverty¹²-it is the abjuration of choices and opportunities for living a tolerable life.¹³ In the recent past, poverty was defined as insufficient income to buy a minimum basket of goods and services.¹⁴ Today, the term is usually understood more broadly as the lack of basic capabilities to live in dignity.¹⁵ This definition avows poverty's broader feature, such as hunger, health, education, discrimination, vulnerability and social exclusion. Because, living in poverty leads the poor very often to be treated badly, both by the state and society and to unclasp form voice and power in those institutions.¹⁶ However, as a matter of fact, I shall base my definition on 'capability approach' only. The reason is that in the last two decades, the poverty discourse has transcended

¹⁰ For example, Para-5 of the *Vienna Declaration and Programme of Action, 1993* states, all human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights.

¹¹ UNGA, '*Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives*', (09 August 2012) available at, <<http://www.ohchr.org/Documents/Issues/Poverty/A-67-278.pdf>> last accessed on 24 August 2014.

¹² Income poverty describes a person or family who lives on or below the minimum acceptable way of life. It is most likely to occur in people who have a low income. Women, disabled and lone parents are at higher risk of being in income poverty. Changes in the economy, employment being terminated and low income can have a factor on income poverty. The income approach to poverty, which considers people earning less than a certain amount annually as poor, is not an accurate measure of how well people live.

¹³ UNDP, '*Human Development Report: Human Development to Eradicate Poverty*', (1997) available at < <http://hdr.undp.org/reports/global/1997/en>> last accessed on 24 August 2014.

¹⁴ ESCR Committee, '*Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights*', (2001) E/C. 12/2001/10, paras 7 and 8.

¹⁵ Ibid.

¹⁶ World Bank, *World Development Report* (2000/2001) (available at: <<http://siteresources.worldbank.org/INTPOVERTY/Resources/WDR/English-Full-Text-Report/ch1.pdf>> last accessed on 24 August 2014.

from the income criterion to the concept of 'well-being'.¹⁷ This was happened owing to the UNDP Human Development Report (HDR), which was clearly influenced by Amartya Sen's 'Capability Approach', where poverty is seen as 'capability deprivation'.¹⁸ To quote him¹⁹:

'Poverty must be seen as the deprivation of basic capabilities rather than merely as lowness of incomes, which is the standard criterion of identification of poverty. The perspective of capability poverty does not involve any denial of the sensible view that low income is clearly one of the major causes of poverty, since lack of income can be a principal reason for a person's capability deprivation'.

So, as per the capability deprivation, poverty must not be based on the criteria of lowness of income only²⁰ but also can be seen as a deprivation of basic capability. This will show the standard of identification of poverty.²¹ No doubt low income is main cause of poverty, since lack of income can be the principle reason for a person's capability deprivation and a strong predisposing factor for impoverish of life.²² So, income matters in the matter of poverty, but not the sole indicator of poverty where it is low. This is because, income is not the only instrument in generating capabilities.²³

¹⁷ Sen starts from the position that living may be seen as a set of interrelated functionings, including both beings and doings. Important functions are being adequately nourished, being a good health, avoiding mortality, being happy, having self-respect and taking part in the life of a community. A person's well-being can be assessed using either realized functionings (What she is actually doing) or her set of available alternatives (her real opportunities). All feasible vectors of functions are aggregated in the capability set. Apparently a person's well-being is reflected in the functions actually achieved, whereas a capability set reflects a person's freedom to have well-being comparable to the budget set in terms of commodities. The advantage of referring to capability sets rather than to achieve functionings is clearly related to the intrinsic value of freedom in Sen's conception, thus, he postulates the use of the informational base of capability sets in the analysis of people's well-being. See, Amartya Sen, *Development as Freedom* (Oxford University Press, 1992) 39-52.

¹⁸ The Capability Approach was first articulated by the Indian economist Amartya Sen in the 1980s. It has been employed extensively in the context of human development, for example, by the United Nations Development Programme (UNDP), as a broader, deeper alternative to narrowly economic metrics such as growth in GDP per capita. Here 'poverty' is understood as deprivation in the capability to live a good life.

¹⁹ Sen, above n 17, 87.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ Flavio Comin, Mozaffar Qizibash and Sabina Alkire, *Capability Approach: Concepts, Measures and Applications* (Cambridge University Press, 2008) 32.

2.2 The Concept of Human Rights

Human rights are a global vision backed up by the state obligations and are essentials for the existence of human beings themselves.²⁴ They are intrinsic to every human being, simply because of being human. Around the world, peoples and nations have recognized the importance of human rights as a fundamental part of social justice.²⁵ For most people, human rights are a set of values as much as a set of laws. For activists, they can be a set of tools or a vision. Human rights also express themselves as the global social justice movement for our time.²⁶ Though this rudiment definition of human rights at present time is almost unanimous²⁷ but the purposive definition of it particularly when a link of it is expounded to poverty it becomes very obscure. Whether it should be accepted as a legal or moral one- leads this hazard. There is an increasing trend to use human rights language as a legitimate moral discourse that evokes universality²⁸ and consensus of fundamental values among otherwise competing traditions on a shared minimum standard of human dignity.²⁹

Poverty leads to the violation of Human Rights in general.³⁰ So, poverty cannot be unconcealed as a denial of economic and social rights exclusively (because also civil and political rights are compromised), its connection with human rights is mainly addressed through them.³¹ As a consequence, the discussions about whether economic and social rights create legal or moral obligations are particularly relevant to the poverty and human rights discussion. Unfortunately, this is not always diaphanous in the positions of those who worked on the issue, particularly in the United Nations (UN) context.³² However, presently the United Nations and the international system around it are increasingly calling upon to navigate new territory in terms of addressing human rights issues which are more complex and global in scope and impact.³³

²⁴ Samantha Power and Graham Allison (eds.), *Realizing Human Rights: Moving from Inspiration to Impact* (Palgrave Macmillan, 2000) 357.

²⁵ Curtis F. J. Doebbler, *Introduction to International Human Rights Law* (CD Publishing, USA, 2007) 173.

²⁶ Available at < <http://www.nesri.org/human-rights/human-rights-a-global-vision>> last accessed on 24 August 2014.

²⁷ Dr. Mizanur Rahman, "Human Rights: The Bridge across Borders" (2006) 17(2) *Dhaka University Law Journal* 79-116.

²⁸ Dr. M. Ershadul Bari, 'Human Rights and World Peace', (1992) 3(1) *Dhaka University Law Journal* 1-12.

²⁹ J. Rawls, *Political Liberalism* (New York: Columbia University Press, 1996) 227-230.

³⁰ Thomas Pogge (ed.) *Freedom from Poverty as a Human Right: Who Owes What to the Very Poor* (Oxford University Press, 2007) 59.

³¹ Ibid.

³² Thomas Pogge, *Poverty and Human Rights* (Polity Press, Cambridge, UK, 2002) 5.

³³ Alisa Clarke, *The Potential of the Human Rights-Based Approach for the Evolution of the United Nations as a System* (2011) 12(4) *Human Rights Review* 2.

In my study, I will always ascribe to human rights in the legal sense, as a set of internationally legally binding norms based on international treaties and customs as well as the authorised interpretations of those instruments.

3. Linking Poverty with Human Rights

The link is to be drawn from the viewpoint of capability deprivation since the 'capability approach' is widely accepted as the conceptual 'bridge' between poverty and human rights.³⁴ It advances the idea that linking poverty and human rights creates an opening where the former concept can be understood and addressed in terms of deprivation of capabilities or lack of empowerment, as a denial and even a violation of human rights, rather than in terms of income or charity.³⁵ Furthermore, this congregates new variable to economics which ruminates the inherent and instrumental appraisal of fundamental freedoms and human rights.

The Office of the High Commissioner for Human Rights (OHCHR) favors that, the use of Sen's 'capability approach' is an exact conceptualisation of poverty from a human rights perspective and there is a 'natural transition from capabilities to rights'.³⁶ Under this approach, they further added that poverty is 'the failure of basic capabilities to reach certain minimally accepted levels'³⁷ and it is also 'the absence or inadequate realisation of certain basic freedoms'³⁸. Being so, since freedom is the common element that links the two approaches, there is a conceptual equivalence between basic freedoms and rights.

Again there are some difficulties in this theoretical correspondence. *Firstly*, the concept of basic capabilities is contingent, while human rights are not. *Secondly*, the content of each basic capability is also contingent, while international human rights law is defined universal minimum core content of rights.³⁹ Since, poverty denotes an extreme form of deprivation, only

³⁴ Polly Vizard, *Poverty and Human Rights: Sen's 'Capability Perspective' Explored* (Oxford University Press, 2006) 12, 23, 108

³⁵ Maritza Formisano Prada, *Empowering the Poor through Human Rights Litigation* (UNESCO, 2011, 13-8)

³⁶ OHCHR, '*Human Rights and Poverty Reduction, a Conceptual Framework*', (New York and Geneva, 2004) available at: <<http://www.unhchr.ch/html/menu6/2/povertyE.pdf>> last visited on 24 August 2014.

³⁷ A. Sen, *Inequality Re-examined* (Cambridge: Harvard University Press, 1992,109) cited in Hunt, Nowak & Osmani, HR/PUB/04/1, 2004, 7.

³⁸ OHCHR. '*Human Rights and Poverty Reduction, a Conceptual Framework*', New York and Geneva, (2004) available at:< <http://www.unhchr.ch/html/menu6/2/povertyE.pdf>>last visited on 24 August 2014.

³⁹ The committee is of the view that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every state party. See, United Nations' Committee on Economic,

those capability failures would count as poverty that is deemed to be 'basic' in some order of priority.⁴⁰ The OHCHR argues that different communities may, of course, have a different understanding of what would qualify as 'basic' capabilities.⁴¹ There is a suspicion here with the human rights discourse which jeopardises the alleged conceptual equivalence. The 'capability set' that each society will list as basic can't be equivalent to human rights. This is because the universality of the catalogue of human rights is beyond any political discussion and communities preferences.⁴² This conflict has been recognized in an obscure way by the OHCHR. Where it has been argued that although there is some degree of relativity in the concept of poverty from empirical observation it is possible to identify certain basic capabilities that would be common to all.⁴³ On the basis of this identification, the capability approach provides a framework in which the capability to achieve a standard of living adequate for survival and development is characterised as a basic human right. Shelter, housing, adequate nutrition, safe water and sanitation, access to basic health and social service and education are the primary consideration here among others.⁴⁴

So, international human rights law and the capability approach have complementary and reinforcing elements and that these elements provide the basis for a cross-disciplinary framework for analyzing poverty as a human rights issue. Moreover, they stand out as two approaches that are concerned first and foremost with the well-being of individuals, their freedom, dignity and empowerment.

4. Legal and Policy Framework for Poverty Reduction

Human rights exist to stabilise human beings from any deprivation in a legal context. Owing to this fact, poverty under international human rights law is seen as violations of rights i.e., economic, social, cultural as well as civil and political. This ultimately requires a legal commitment of each responsible actor and recognizes the poor people as the right holders to pursue their rights from those actors to whom the rights are due. But, this type of attention based on human rights approach is directed not from very past. Depicted with the UN Charter in 1945 the concept has got an

Social and Cultural Rights: The Nature of State Parties Obligations', *General comment 3*, UN Doc. HR1/GEN/1/Rev.1 at 45, 1990, § 1 and 10.

⁴⁰ OHCHR. 2004. '*Human Rights and Poverty Reduction, a Conceptual Framework*', New York and Geneva, available at: <http://www.unhchr.ch/html/menu6/2/povertyE.pdf>, last visited on 24 August 2014.

⁴¹ Ibid, at p. 6.

⁴² Kirsten Hastrup, *Human Rights on Common Grounds: The Quest for Universality*, Kluwer Law International 2001, Vol. 2, 198-210.

⁴³ Ibid 8.

⁴⁴ P. Vizard, *Poverty and Human Rights: Sen's Capability Perspective Explored* (Oxford University Press, 2006) 66.

articulated view now a day both at international and national jurisdictions. Bangladesh is not an exception in this context, where a legal and policy framework exists to reduce poverty.

4.1. International Framework

The idea of human rights spawned an entire area of international law with a diverse set of human rights treaties and declarations addressing a wide range of issues, such as food, shelter, education, health, social security and more. Human rights law provides standards and mechanisms to protect those rights necessary to ensure primarily dignity and then freedom and equality. To uphold this human dignity on which the whole international human rights law paradigm is founded, poverty is the greatest impediment amongst others. Therefore, international human rights law always emphasises on keeping human dignity intact by reducing poverty.⁴⁵ In absence of this concern, it is very likely to jeopardize the whole human rights edifice.

The abovementioned thinking, lead to the formulation of various international human rights instruments declaring either expressly or impliedly that poverty should be reduced in order to promote and protect human rights. The first comprehensive instruments among them can be attributed to the United Nations Charter, 1945 and then Universal Declaration of Human Rights, 1948. To clarify and confirm the latter two separate covenants on Civil and Political rights and the Economic, Social and Cultural rights were adopted in 1966. Since then a large number of conventions have been adopted⁴⁶ and the process is still continuing.

The reaffirmations of the UN in fundamental human rights⁴⁷ made it imperative that those rights are existing from the very past, before the inception of the UN itself. In this arena, the inherent right⁴⁸ of 'right to

⁴⁵ This can clearly be inferred from various international instruments that may either be the *Universal Declaration of Human Rights, 1948* or the *Covenant on Economic, Social and Cultural Rights, 1966*.

⁴⁶ For a list of these international instruments, see, for example, Werner Levi, *Contemporary International Law: A Concise Introduction* (Westview Press, 1993) 163.

⁴⁷ The Preamble of the *UN Charter* states that "We the peoples of the United Nations determined...to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small."

Inherent rights are those rights which exist merely because of being a human. Human rights are inherent in all human beings, who possess them from birth. The dignity of the persons who have those rights should be respected because these are their moral birth right and not merely because of certain rough calculations concerning general welfare. See, Morsink Johannes, *Inherent Human Rights: Philosophical Roots of the Universal Declaration* (University of Pennsylvania Press, 2009) Chap-1.

life⁴⁹ has been codified as a Civil and Political right⁵⁰ (hereinafter abbreviated as CP right). This CP right is joined with another ESC right (Economic, Social and Cultural right) namely, adequate standard of living.⁵¹ From this viewpoint, the right to life, for example, identifies a state of affairs and the secure conditions for a human life that people should enjoy. Poverty threatens life, security and health. So, it would seem that whatever needs to be done to ameliorate poverty-ridden conditions falls under the responsibilities associated with these rights. That is, these rights imply a right to be free from poverty.⁵² Hence, the presence of poverty may threaten the enjoyment of the right to life as well as adequate standard of living⁵³(CP as well as ESC rights). So, to ensure the right to life, it is equally important to reduce poverty. This view was somehow been reflected around 65 years back in the UN Charter since article 56⁵⁴ of the UN Charter imposes an obligation on all of its member states for the realisation of certain human rights that develop the basic conditions of life and living standards in pursuance of article 55.⁵⁵ All UN members have

⁴⁹ The *right to life* is undoubtedly the most fundamental of all rights. All other rights add quality to the life in question and depend on the pre-existence of life itself for their operation. The *Human Rights Committee* refers to it as 'the supreme right from which no derogation is permitted even in time of public emergency' (General Comment-6). To those commentators arguing in favour of a hierarchy of rights, the right to life is undoubtedly at the apex of that hierarchy; to those submitting arguments for universal fundamentality and thus no hierarchy, the right to life is still recognized as pre-eminent because given violations can never be remedied. See, Rhona K.M. Smith, *Textbook on International Human Rights* (Oxford University Press, 2007) 194.

⁵⁰ Article 6(1) of the *ICCPR* states that every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

⁵¹ Article 11(1) of the *ICESCR* states that, the States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

⁵² David. P Forsythe (ed), *Encyclopedia of Human Rights*, (Oxford University Press, 2009) Vol.1, 316.

⁵³ Ibid.

⁵⁴ Article 56 of the *UN Charter* states that all Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.

⁵⁵ Article 55 of the *UN Charter* states that with a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: a) higher standards of living, full employment, and conditions of economic and social progress and development; b) solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

pledged themselves to implement those rights in their territories for their nationals.⁵⁶ The responsibility for implementation of these international human rights standards have been imposed upon the national governments by the 'International Bill of Human Rights'⁵⁷ and other international human rights instruments in consonance with international co-operation. Another enhancing factor in this boundary is the UN resolution concerning poverty at different times.⁵⁸

The impact of poverty is global but the presence of it is local.⁵⁹ Poverty is more severe in developing and third world countries rather than the rest.⁶⁰ The demonstrated quest of the third world for development in order to overcome poverty was eventually recognized in the 1986 *UN Declaration on the Right to Development*, subsequently reaffirmed by the *Vienna Declaration and Programme of Action* adopted by the World Conference on Human rights. Development here perceived as the key to unlocking the inequitable distribution and utilisation of resources, which had characterised the global economy for so long to the grave detriment to the third world. It entails that the concept of development must entail not only the idea of economic betterment but also of greater human dignity, security, justice and equity.⁶¹ This ultimately leads to the consensus that there has to be an end to poverty. Under this declaration, 'right to development' is regarded as a prerogative of state and a reflection of its territorial sovereignty.⁶²

⁵⁶ Above note 54.

⁵⁷ The *International Bill of Human Rights* consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and its two Optional Protocols. UN Fact Sheet No.2 (Rev.1), *The International Bill of Human Rights*, available at: <http://www.ohchr.org/Documents/Publications/FactSheet2Rev.1en.pdf> last accessed on 24 August 2014.

⁵⁸ Resolutions of the Commission on Human Rights on Extreme Poverty: E/CN.4/RES/2004/23, E/CN.4/RES/2003/24, E/CN.4/RES/2002/30, E/CN.4/RES/2000/12, E/CN.4/RES/1999/26, E/CN.4/RES1998/25, E/CN.4/RES/1997/11, E/CN.4/RES1996/10, E/CN.4/RES1995/16, E/CN.4/RES1994/12, E/CN.4/RES/1993/13, E/CN.4/RES/1992/11, E/CN.4/RES/1991/14, E/CN.4/RES/1990/15, E/CN.4/RES/1989/10, E/CN.4/RES/1988/23. Relevant resolutions of the General Assembly: A/RES/57/211, A/RES/53/146, A/RES/47/196, A/RES/46/121.

⁵⁹ Narayan, above n 8, 230.

⁶⁰ Areas in the world where poverty is common include India, South-East Asia, Africa and South America (third world countries.) However, most countries in the world experience poverty to some degree, for example Australia. Visit for more details, <http://members.iinet.net.au/~rabbit/poverty.htm> last accessed on 24 August 2014.

⁶¹ Lucila L Salcedo et al, *Social Issues*, 1999. 4.

⁶² Ibid.

In 1993, *the Vienna Declaration and Programme of Action*⁶³ recognised the solemn commitment of all states to fulfill their obligations to promote universal respect for, observance and protection of all human rights and fundamental freedoms for all.⁶⁴ Here, priority is given on the immediate alleviation and eventual elimination of poverty since it inhibits the full and effective enjoyment of human rights.⁶⁵ Before that, the *Declaration on Social Progress and Development, 1969*⁶⁶ was declared for the equitable redistribution and mobilisation of resources,⁶⁷ progressive increasing of the provision necessary for budgetary and other resources⁶⁸ and adoptions of other measures. One of the bold objectives of such proposed initiatives was to eliminate poverty and the assurance of a steady improvement in the levels of living.⁶⁹

In poverty reduction, the matter of resource mobilisation is an important factor. Taking this view into consideration⁷⁰ *the Cairo Declaration on Population and Development, 1994* says for a strategically allocation of resources⁷¹ among various sectors, which in turn depends upon social, political, economic and cultural realities of the country. In this regard it has determined a 'call for action'⁷² i.e., enacting legislation, formulating policies, monitoring, generating public support, etc.

In 1995, *the Copenhagen Declaration on Social Development*⁷³ acknowledged that the people of the world have shown in different ways an urgent need to address profound social problems, especially poverty, unemployment and social exclusion.⁷⁴ It was further added that the main task for overcoming those problems is to address both their underlying and structural causes and their distressing consequences in order to reduce uncertainty and insecurity in the life of people.⁷⁵ In this regard, certain commitments were made like, ensuring the international community and international organisations, particularly the multilateral

⁶³ UNGA. 1993. A/CONF.157/23, available at <<http://www.unhcr.ch/huridocda/huridoca.nsf/%28symbol%29/a.conf.157.23.en>> last accessed on 24 August 2014.

⁶⁴ *The Vienna Declaration and Programme of Action, 1993*, Section-1.

⁶⁵ Ibid.

⁶⁶ G.A.res. 2542 (XXIV), 24 U.N. GAOR Supp. (No. 30) at 49, UN Doc. A/7630 (1969)

⁶⁷ *The Declaration on Social Progress and Development, 1969*, Part-III

⁶⁸ Ibid, article 16.

⁶⁹ *The Declaration on Social Progress and Development, 1969*, part 2, article 10(c).

⁷⁰ *The Cairo Declaration on Population and Development, 1994*, para-4.

⁷¹ Ibid.

⁷² Ibid.

⁷³ UNGA. 1995. A/CONF.166/9, available at <<http://www.un-documents.net/cope-dec.htm>> last accessed on 24 August 2014.

⁷⁴ *The Copenhagen Declaration on Social Development, 1995*, annex-1, para-1.

⁷⁵ Ibid.

financial institutions⁷⁶ to assist developing countries in particular to achieve the goal of eradicating poverty.

To eradicate poverty one of the main challenges is of financing especially in developing countries. This challenge has been addressed by the *Monterrey Consensus of the International Conference on Financing for Development, 2002*. It speaks for the mobilisation of both domestic⁷⁷ and international resources⁷⁸ in common pursuit of growth, poverty eradication and sustainable development.

Through the Millennium Declaration and the Millennium Development Goals (MDGs) the world is addressing various dimensions of human development, such as halving by 2015 the proportion of people living in extreme poverty.⁷⁹ Developing countries are working to create their own national poverty eradication strategies based on local needs and priorities. The United Nations Development Programme (UNDP) advocates for these nationally-owned solutions and helps to make them effective through ensuring a greater voice for poor people, expanding access to productive assets and economic opportunities, and linking poverty programmes with countries' international economic and financial policies.⁸⁰ At the same time, UNDP contributes to efforts at reforming trade, debt relief and investment arrangements to better support national poverty reduction.⁸¹

So, the abovementioned muniments have widen the horizon beyond existing national and international socio-economic settings, for example, a)

⁷⁶ Ibid.

⁷⁷ The *Monterrey Consensus of the International Conference on Financing for Development, 2002*.

⁷⁸ Ibid.

⁷⁹ UN Secretary General Ban-Ki- Moon said 'eradicating extreme poverty continues to be one of the main challenges of our time, and is a major concern of the international community. Ending this scourge will require the combined efforts of all, governments, civil society organizations and the private sector, in the context of a stronger and more effective global partnership for development. The Millennium Development Goals set time bound targets, by which progress in reducing income poverty, hunger, disease, lack of adequate shelter and exclusion — while promoting gender equality, health, education and environmental sustainability — can be measured. They also embody basic human rights — the rights of each person on the planet to health, education, shelter and security. The Goals are ambitious but feasible and, together with the comprehensive United Nations development agenda, set the course for the world's efforts to alleviate extreme poverty by 2015', available at: <<http://www.un.org/millenniumgoals/bkgd.shtml>> last accessed on 26 August 2014.

⁸⁰ UNDP. 2012. *Poverty Reduction, Zimbabwe*, available at: <<http://www.undp.org.zw/focus-areas/povertyreduction?3a1ed061a28f8a5e62fd4865066ea7fa>,> last accessed on 24 August 2014.

⁸¹ Ibid.

reveals the presence of poverty as a human rights concern;⁸² b) removes the marginal attentions to 'poverty' and 'poverty reduction';⁸³ c) helps frame pro-poor policies at a greater range presently;⁸⁴ d) directs to follow various conditions and consensus;⁸⁵ e) helps focus on issues which can either exacerbate poverty or enshrine a human right not to be poor and in establishing specific rights entitlements that bear on reducing poverty.⁸⁶

So, taking the entire international phenomenon altogether represents the view that in international arena sufficient instruments exist which are worthy enough to shape a ground on the basis of which it can be said that a legal and policy framework exists for poverty reduction *albeit* not fully developed.

4.2 National Framework

Bangladesh is a party to many of these international human rights instruments *albeit* with certain reservations.⁸⁷ This, as per international legal and jurisprudential discourse, makes it imperative that, the Government of Bangladesh shall endeavor to implement those provisions and create the framework nationally in consonance with international legal and policy environment and co-operation.

The Constitution of Bangladesh pledges that it is the fundamental aim of the state to realise a society in which the rule of law, fundamental human rights and freedoms, equality and justice will be secured for all citizens.⁸⁸ Again, the main butt of our national building was to set up a socialist society upholding the principles of equality and justice-political, economic and social.⁸⁹ Accordingly, fundamental rights for the citizen of Bangladesh have been guaranteed in the Constitution which is civil and political in nature.⁹⁰ On the other hand, most of the socio-economic rights are accommodated in part-II as the fundamental principles of state policy,⁹¹

⁸² Osvaldo Feinstein and Robert Picciotto (eds), *Evaluation and Poverty Reduction: Proceedings from World Bank Conference* (OED, 2000) 165.

⁸³ Else Oyenetal, *Best Practices in Poverty Reduction: An Analytical Framework* (CROP, 2002) 1.

⁸⁴ Paul Mosley, *The Politics of Poverty Reduction* (Oxford University Press, 2012) 16-49.

⁸⁵ T. Pogge & A. Follesdal (eds.), *Real World Justice: Grounds, Principles, Human Rights and Social Institution* (Springer, 2005) 22.

⁸⁶ Asbjorn Kjonstad Lucy and Peter Robson (eds) *Law and Poverty: The Legal System and Poverty Reduction* (Zed Books, 2004) 22-34.

⁸⁷ Dr. Md. Rahmat Ullah 'Bangladesh's adherence to International Human Rights Instruments: A Critical Study', in Dr. Mizanur Rahman (ed) *Human Rights and Empowerment* (ELCOP, Dhaka, 2001) 175-181.

⁸⁸ The Preamble of the *Constitution of the People's Republic of Bangladesh*.

⁸⁹ Ibid 3

⁹⁰ Ibid, part-III (arts 26-47).

⁹¹ Ibid, Part-II (arts 8-25).

the Constitution itself terms those as 'principles' not laws.⁹² Being so, though these provisions are not enforceable by the court directly but the court is not indifference to enforce them indirectly. This is evident from various verdicts of the Supreme Court of Bangladesh.⁹³ So, the Constitutional pledge to uphold and ensure the rights of the people led to a framework to combat against poverty.

Again, article 15 of the Constitution says that it shall be a fundamental responsibility of the state to attain, through planned economic growth, a constant increase of the productive forces and a steady improvement of the material and cultural standard of living of the people, with a view to securing to its citizens- (a) the provision of basic necessities of life, including food, cloth, shelter, education, and medical care; (b) the right to work, that is the right to guaranteed employment at a reasonable wage having regard to the quantity and quality of work; (c) the right to reasonable rest, recreation and leisure; (d) the right to social security, that is to say the public assistance in cases of undeserved want arising from unemployment, illness or disablement, or suffered by widows or orphans or in old age or in other such cases. To combat poverty, furthermore, the apex law provides certain other provisions relating to equality of opportunity,⁹⁴ principle of non-discrimination,⁹⁵ advancement of backward section of society,⁹⁶ compulsory education,⁹⁷ and the instrument of development.⁹⁸ The ultimate goal of those provisions in broad terms is eradication of poverty and development of Bangladesh. So, in accordance with this constitutional obligation since 1973, Bangladesh has been formulating national development plans known as the 'Five-Year Plan'.⁹⁹

⁹² Muhammad Ekramul Haque, 'Legal and Constitutional Status of the Fundamental Principles of State Policy as embodied in the Constitution of Bangladesh' (2005) 16(1) *Dhaka University Law Journal* 13-32.

⁹³ For example in *Secretary, Ministry of Finance, Government of Bangladesh v Mr. Md. Masdar Hossain & others* 20 BLD (AD) 104, the court does not seem to enforce the Principle directly but the court criticized the state for non-implementation of Article 22 of the Constitution of Bangladesh, one of the Fundamental Principles of State Policy.

⁹⁴ Article 19(2) of the *Constitution of the People's Republic of Bangladesh* states that, the State shall adopt effective measures to remove social and economic inequality between man and man and to ensure the equitable distribution of wealth among citizens, and of opportunities in order to attain a uniform level of economic development throughout the Republic.

⁹⁵ The *Constitution of the People's Republic of Bangladesh*, art.28(1).

⁹⁶ *Ibid*, Article 28(4).

⁹⁷ *Ibid*, Article 17.

⁹⁸ *Ibid*, Article 16.

⁹⁹ Since independence the development process of Bangladesh has been following 'Five-year Plans' and all succeeding 'Five-year Plans' are continuation of the preceding one. Five annual development Plans make one "Five-year Plan" and each budgetary year targets to complete one annual development plan of the five-year's plan. For more details, see: Ullah, Dr. Md. Rahmat, 'Human Rights, Poverty and

It has been visible that all five -year development plans have given due emphasis on poverty reduction.¹⁰⁰ In the fifth five-year plan¹⁰¹ it is mentioned that poverty reduction is the over-riding object of the plan. To achieve this objective, certain initiatives are decided to carry out, like, generation of productive employment, achievement of food self-sufficiency, human resources development, development of infrastructure, curbing population growth, provision of environment, closing the gender gap and establishment of better social justice through more equitable distribution of income.

However, in line with this journey, the 'Sixth Five Year Plan' of Bangladesh (FY2011-15), which came into operation from July 2010, puts accelerated growth with equity and social justice as the cornerstone of the underlying development strategy. Accelerating growth, decent job creation, human development and reductions of poverty, reducing income inequality and regional disparities are overarching goals of this latest plan.¹⁰²

In order to ensure access to the assistance of the World Bank, in recent times, Bangladesh being an inexperienced country has prepared primarily

Development Planning in Bangladesh: The PRSP Debacle' in Dr.Mizanur Rahman, (ed) *Human Rights and Development* (ELCOP, Dhaka, 2002) 101-108.

¹⁰⁰ *The First Five-Year Plan (1973-1978)* recognized poverty reduction as one of its foremost objectives. The basic approach for alleviation of poverty was generation of employment through higher growth, and, using monetary and fiscal policies to facilitate equitable distribution of basic goods to make them available at reasonable prices to the poor; *The Two-Year Plan (1978-1980)* placed top priority on the growth rate, rather than on poverty reduction. *The Second Five-Year Plan (1980-1985)* of Bangladesh focused on poverty reduction through growth of income and employment. Growth with equity through expansion of employment was expected to raise the purchasing power. For poverty alleviation, planners provided incentive to agricultural support and agro-process industries as these would contribute to the development of the rural economy. *The Third Five-Year Plan (1985-1990)* of Bangladesh placed poverty reduction to sixth position among eight pronounced objectives. Generation of employment through the dynamic private sector, satisfaction of minimum basic need through increased supply and higher income and faster economic growth was expected to take care of poverty. Since economic growth was seen as the cure for endemic poverty, the Plan provided only marginal support for delivery of basic social services to the poor and the plan disadvantaged. *The Fourth Five-Year Plan (1990-1995)* held poverty alleviation and employment generation through human resource development as one of its major objectives. The plan emphasized the resilience of the poor and the disadvantaged groups to survive against most adverse circumstances.

¹⁰¹ *The Fifth Five-Year Plan (1997-2002)* of Bangladesh considers alleviation of poverty as synonymous with development. For this purpose, development strategies seek to accelerate economic growth, enforce higher investments in basic services and social sectors, restructure institutions and administrative framework, enhance the poor's crisis coping capacities and build up their asset base and promote targeted income and employment programmes.

¹⁰² *Introduction of the fifth five-year plan (1997-2002)*, Planning Commission, Ministry of Planning, Government of the People's Republic of Bangladesh.

an Interim Poverty Reduction Strategy Paper (I-PRSP).¹⁰³ The I-PRSP was prepared under the constraints of limited opportunities for consultation and thematic review. Being so, a number of gaps were identified during post-document reviews and consultations as well as in the Joint Staff Assessment of the World Bank and the IMF for appropriate consideration in the preparation of the full-blown PRSP that addresses- i) environment-poverty interface, ii) strategy for water resources management, iii) quality improvement in education, iv) mainstreaming gender issues in agriculture, v) rural development and labor market, vi) private sector development, vii) medium term plan for trade policy reforms, viii) financial sector reforms, ix) policies and institutions for rural non-farm activities, and x) medium term framework on sectoral policy priorities.¹⁰⁴

The Government vision for a 'Poverty free Bangladesh' is to reduce poverty within the shortest possible time through attaining higher economic growth. In line with its objective, NSAPR II (FY 2009-11) was approved by the then Caretaker government in 2008. In 2009, the same has been revised to align the NSAPR II in line with the development vision of the present govt.¹⁰⁵

Furthermore, over the last 20 years, Bangladesh has been exposed to the policy reform process introduced by the World Bank and IMF through their Structural Adjustment Policies (SAP) and Enhanced Structural Adjustment Policies (ESAP).

However, in the arena of statutes concerning the adherence to the poverty reduction is not satisfactory both in terms of a) making the laws; as well as b) content of laws. Though poverty is one of the greatest problems in this region particularly in rural area from very past but the first law enacted remotely related to poverty reduction was 'The Bengal Rural Poor and Unemployment Relief Act, 1939 (Bengal Act X of 1939).¹⁰⁶ The poor and unemployed people could have received financial aid¹⁰⁷ under this

¹⁰³ *A National Strategy for Economic Growth, Poverty Reduction and Social Development*, Economic Relations Division, Ministry of Finance, Government of the People's Republic of Bangladesh, April 2002.

¹⁰⁴ *National Strategy for Accelerated Poverty Reduction*, General Economics Division, Planning commission, Government of the People's Republic of Bangladesh, October 2005.

¹⁰⁵ In January 2009 the political regime of Bangladesh has changed and Awami League came into power and revised the NSAPR II. The revised NSAPR II is based on the reality of multidimensionality of poverty and takes into account the dynamics of the socio-economic factors that reinforce and perpetuate poverty in the country. For, more details, see, *National Strategy for accelerated Poverty Reduction II (Revised) FY 2009-11*. General Economics Division, Planning Commission, Government of the People's Republic of Bangladesh, December 2009.

¹⁰⁶ East Pakistan Code, Vol. VI, at pp. 9-15 (Now stands repealed).

¹⁰⁷ *Bengal Rural Poor and Unemployment Relief Act, 1939*, s 3.

repealed Act of 1939.¹⁰⁸ After the birth of Bangladesh in 1971, the first law enacted regarding poverty matter in 1989, namely, 'The Bogura Polli Unnayon Academy Ordinance, 1989 (Act No. IX of 1989).¹⁰⁹ This Act, mainly dealt with the rural development issue through the reduction of poverty. In the same year, Palli Parishad Ain, 1980 (Act No. XXXIII of 1989) was enacted for ensuring the overall improvement of the village people. Both of the laws of 1989 now stand repealed. However, in 1999, the Palli Daridro Bemochon Foundation Ain (Act No. XXIII of 1989)¹¹⁰ was enacted. Among the different activities of the foundation established¹¹¹ under this Act, one of the bold functions is to reduce the poverty and to ensure the equality of man and woman.¹¹² However, after 1999, there is no specific law made, with a proximate connection to poverty reduction.

Owing to this lack of strict and available legal provision, the judiciary is also a little bit reluctant to give any direction relating to poverty issue. However, The Supreme Court (SC) of Bangladesh in a recent case namely '*Ain O Salish Kendra (ASK) and Others vs. Government of Bangladesh and Others*'¹¹³ has given the verdict that is pro-poor in nature. The court held that:

"...our constitution both in directive state policy and in the preservation of the fundamental rights provides that the state shall direct its' policy towards securing that the citizens have the right to live, living and livelihood. Thus our country is pledge bound -within its economic capacity and in an attempt for development to make effective provision for securing the right to life, livelihood, etc....any person, who is deprived of his right to livelihood except according to just and fair procedure established by law, can challenge the deprivation as offending the right to live conferred by constitution"¹¹⁴

So, the international instruments to which Bangladesh is a party, the constitution and other laws, judicial decisions, national development plans- all contain provisions regarding the reduction of poverty, although not fully developed. So, the Government cannot stand distinct well outside the adherence of poverty reduction initiatives rather it is under a clear obligation to reduce poverty. This is also because of the fact that it is respectful both to the human rights and human dignity.

¹⁰⁸ The said Act, have been repealed in 1960 through the *Bengal Rural Poor and Unemployment Relief (Repeal) Ordinance, 1960* (EPO No. XX of 1960).

¹⁰⁹ *Bangladesh Gazette* dated 27 August 1989, 42 DLR 1990,13-15.

¹¹⁰ *Bangladesh Gazette* dated 10 December 1999, 52 DLR 2000, 1-13.

¹¹¹ *Ibid*, section 4.

¹¹² *Ibid*, section 15(1).

¹¹³ Writ Petition No. 3034 of 1999, 19 BLD HCD (1999) 488.

¹¹⁴ *Ibid*.

5. Poverty in Bangladesh: A Profile

Though different measurement techniques provide somewhat different data about the level and incidence of poverty, the general picture of poverty in Bangladesh is critical. In an assessment of statistics on poverty based on human development indicators, UN Human Development Report points out that 86% of the total population of Bangladesh live below the poverty line.¹¹⁵

5.1 Poverty: A Brief Scenario

Bangladesh is one of the world's poorest countries, ranking third after India and China in the extent of poverty.¹¹⁶ The population is predominantly rural, with about 85 per cent of its total population¹¹⁷ living in rural areas. Around 31% of the rural population presently suffers the indignity of chronic poverty, low consumption, hunger and under-nutrition, lack of access to basic health services, illiteracy and other deprivations for more than a decade. About 24% of the total population currently lives in extreme income-poverty. About 19% of rural households cannot have 'full three meals' a day; about 10% subsist on two meals or less for a number of months every year. While Bangladesh has come out of the 'shadow of famine', the problem of starvation still persists. However, 47% people are staying below poverty line and 28% of population lives under the extreme poverty line. About 40 million people go to bed without meal every night. This observation shows that Bangladesh is a country of poor. The long term growth trend fluctuates here randomly. Although, several international organizations like IMF, World Bank; Government and Non-Governmental organizations(NGOs) have been working for the alleviation of poverty but the success in the field is very negligible i.e., 1% or 1.8% at best each year.¹¹⁸ Statistics¹¹⁹ show reduction of poverty in the last five years (1999-2004) from 44.7% to 42.1%. But according to the principles of Millennium Development Goals (MDG), it has to reduce poverty by 1.15% every year.¹²⁰

¹¹⁵ UNDP, 'Human Development Report', (1993) available at: <http://hdr.undp.org/en/reports/national/asiathepacific/bangladesh/name.2748_en.htm> last accessed on 24 August 2014.

¹¹⁶ Population live below poverty line in China is 13.4%, in India 29.8% and in Bangladesh is 31.51%, available at: <<http://www.indexmundi.com/g/r.aspx?v=69>> last accessed on 24 August 2014.

¹¹⁷ Total population (in thousands)-142319, Total male-71255, Total female-71064, Bangladesh Bureau of Statistics, available at: <<http://www.bbs.gov.bd/Home.aspx>> last access on 24 August 2014.

¹¹⁸ The Daily Star. 2006 <<http://www.thedailystar.net/2006/05/01/d60501110192.htm>> (last accessed on 15 July 2014)

¹¹⁹ Ibid.

¹²⁰ Ibid.

Again, the geography of poverty, regional variations, and spatial patterns are also critical in Bangladesh, because a) economic growth and setbacks are not static over time, b) nor are they uniform over space and the rate for Bangladesh during 2000s was much lower than that of the rates in China, India and Vietnam.¹²¹ The poverty map¹²² of Bangladesh presents a zigzag picture. Poverty headcounts rate¹²³ is also different.

Another dimension of poverty in Bangladesh is 'seasonal poverty', locally known as *Monga*, indicates the seasonal deprivation of food during the pre-harvest season of *Aman peddy*, where the incidence of poverty is much higher.¹²⁴ An analysis of household income and expenditure survey (HIES) data shows that average household income and consumption are much lower during *Monga* season than in other seasons, and that seasonal income greatly influences seasonal consumption.¹²⁵ However, lack of income and consumption smoothing is more acute in greater Rangpur, the North West region, than in other regions, causing widespread seasonal deprivation. For example, HIES findings suggest that, while the rural poverty-headcount rate nationwide was 43.8 percent in 2005, the greater Rangpur (northwest) region had a rural poverty rate of 57.4 percent.¹²⁶

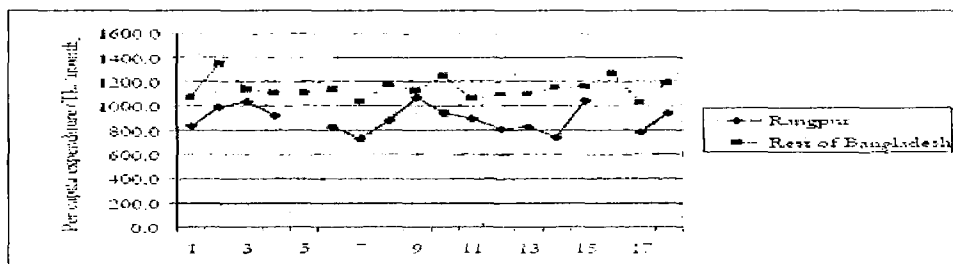


Figure: Distribution of Per Capita Expenditure.¹²⁷

¹²¹ Ullah, above note 99.

¹²² Poverty mapping is an important statistical instrument that can estimate the poverty incidence at Upazila levels. The Bangladesh Bureau of Statistics (BBS) and the World Bank, in collaboration with the World Food Programme (WFP), recently updated the poverty map for Bangladesh which was financially supported by the UK's Department of International Development (DfID). The poverty map is available at: <http://siteresources.worldbank.org/INTBANGLADESH/.pdf> last accessed on 28 July 2014.

¹²³ HIES Survey Report (2010) Available at: www.bbs.gov.bd/home.aspx last accessed on 24 August 2014.

¹²⁴ SR Khandker, 'Seasonal and Extreme Poverty in Bangladesh: Evaluating an Ultra poor micro-finance Project' (Policy research Working Paper no. 5331, The World Bank, 2012) available at: <http://www-wds.worldbank.org/external/default/WDSContentServer> Last access on 12 August 2014.

¹²⁵ Ibid

¹²⁶ Ibid

¹²⁷ HIES Survey Report (2005), BBS. Available at: www.bbs.gov.bd/home.aspx, last accessed on 16 July 2014.

5.2 Causes of Poverty

Most of the altercations concerning poverty and poverty related policy originate from difference in, what is perceived to be the major determinants and causes of poverty. Poverty is a holistic phenomenon. It is multi-facet and interactive. What causes poverty in an emblematical third world country like Bangladesh? In fact there is no single cause of poverty; the plight of some poor could be due to several factors, each contributing to some degree of observed poverty. It is therefore, very important to identify the extent of the situation to which each of these factors contributes to observe poverty. Failure to isolate the real causes of poverty may result in institutional and policy interventions that do not alleviate poverty rather could actually foster the cause to invigorate poverty. However, some of the most notable reasons sorted out by the Government and Policy makers are- rapid growth of population,¹²⁸ corruption in every sphere of administration,¹²⁹ illiteracy, unemployment as well as chronic irregularity of work, natural calamities (river erosion, cyclone, tidal surge, excessive rain),¹³⁰ lack of administrative fairness and accountability, limited access to public services; lack of mass people's participation in local government, political clash and instability.

5.3 Recent Poverty Trend in Bangladesh

The poverty of our time is unlike other. The recent poverty trend in Bangladesh has undergone a significant change.¹³¹ In spite of various traumas, Bangladesh has been successful in achieving significant poverty reduction since 1990s.¹³² Sizeable poverty reduction occurred in Bangladesh between 2000 and 2005, as well as over the longer 15-year time horizon of 1991-2005.¹³³ However, the recent poverty trend in Bangladesh can be shown in the following ways under different headings:

5.3.1 Basic Rights Deprivations

Bangladesh has made almost satisfactory progress with respect to increasing access to education both at primary and secondary levels. Net primary enrollment rates rose from 60.5 % in 1991 to 91.9% in 2010, 93.5% in 2009 while at the secondary level enrollment rates have risen to 43% in 2008 and 49.1% in 2009 from 28%. Again one of the key MDGs is

¹²⁸ CPD, 'Containing Population Pressure for Accelerating Poverty Reduction in Bangladesh', (UNFPA Paper Series 25, 2009). Available at: http://cpd.org.bd/pub_attach/unfpa25.pdf, last accessed on 24 August 2014.

¹²⁹ Ibid.

¹³⁰ The Daily Star, above note 118.

¹³¹ Ambar Narayan, Nobuo Yoshida and Hassan Zaman, *Trends and Patterns of Poverty in Bangladesh in Recent Years* (World Bank, 2007) available at: http://www.cleancookstoves.org/resources_files/trends-and-patterns-of.pdf, last accessed on 16 August 2014.

¹³² Ibid.

¹³³ Ibid.

to achieve universal primary education by 2015. This entails, a) 100% enrollment in primary education, and b) 100% completion of primary education. Against these targets, the school enrollment rates fall drastically from primary education¹³⁴ to secondary.¹³⁵ In 2008 about 50.7% pupils completing grade 5 made a transition to the first year of secondary school. Gross enrollment rate in the secondary phase was only 49.8% in 2008, 53.9% in 2009. This suggests that the country has not been quite successful in addressing and achieving equity, equality, and efficiency of the delivery of primary and secondary education.

In 2005, 19.5% and 7.8% of the total population belonged to the class of hardcore poor and ultra poor respectively who are unable to afford even an adequate diet a day.¹³⁶

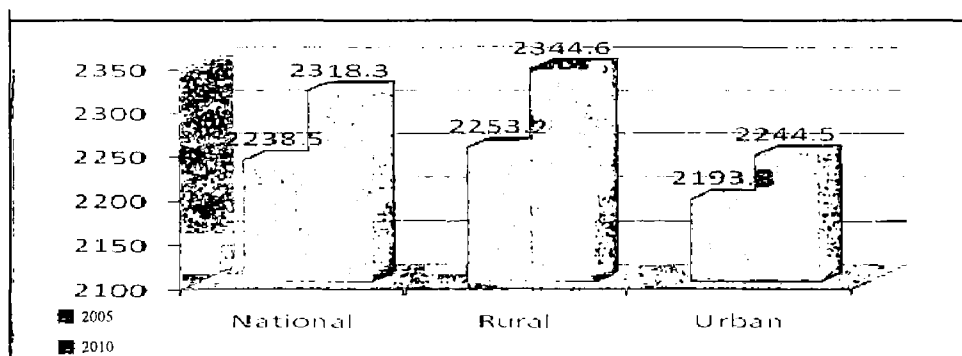


Figure: Per Capita Calorie Intake (K.Cal.)

Health is one of the most important indexes of human development.¹³⁷ Poor health is both the cause and effect of poverty, illiteracy and ignorance.¹³⁸ The goal of the health, population and nutrition sector is to achieve sustainable improvement in the health, nutrition, and reproductive health, including family planning, for the people, particularly to vulnerable groups, including women, children, the elderly and the poor. Some of the major pictures here are, total fertility rate declined to 2.7 in 2007 from 3.3 in 1996-97; under-five mortality rate per 1000 live births declined to 65 in 2007 from 116 in 1996-97; percentage of children's vaccination has improved to 81.9 in 2007 from 54.1 in 1996-97;

¹³⁴ Grade 1 to 5.

¹³⁵ Grade 6 to 10.

¹³⁶ Based on cut-offs in Kilo Calorie per capita per day, Direct Calorie Intake Method (DCI) provides three measures of poverty: absolute poverty (≤ 2122 Kc/capita/day), hardcore poverty (≤ 1805 Kc/capita/day) and ultra poverty (≤ 1600 Kc/capita/day). See, 'An analysis of the National Budget: Allocation for the Ultra Poor', by Centre for Policy Dialogue (CPD), 23 March 2011.

¹³⁷ UNDP, *Human Development Report* (1990) available at <http://hdr.undp.org/en/reports/> last accessed on 23 August 2014.

¹³⁸ Ibid.

percentage of delivery by trained person also increased from 8 in 1996-97 to 18 in 2007.¹³⁹ Nevertheless, the achievement of universal health coverage, the removal of rural-urban, rich-poor and other form of inequalities and the provision of essential services for vast majority of the population continue to remain major challenges for the health sector. More specifically, issues such as poverty related infectious diseases, mothers suffering from nutritional deficiency, child suffering from malnutrition, poor maternal and child health, unmet need for family planning and the rise in STD infections constitute major challenges.

5.3.2 Living Standard and Welfare

Data on various indicators of living standards and welfare also show improvement during 2005–10, corresponding to the decline in poverty. The data also shows¹⁴⁰ an increase in the coverage of social safety net programmes, which may be a factor contributing to the decline in poverty.

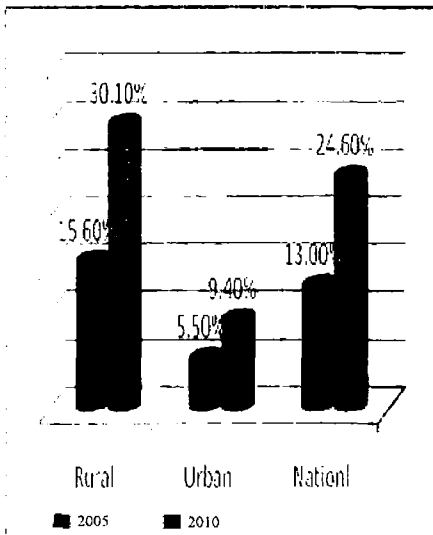


Figure: Households with Access to Electricity

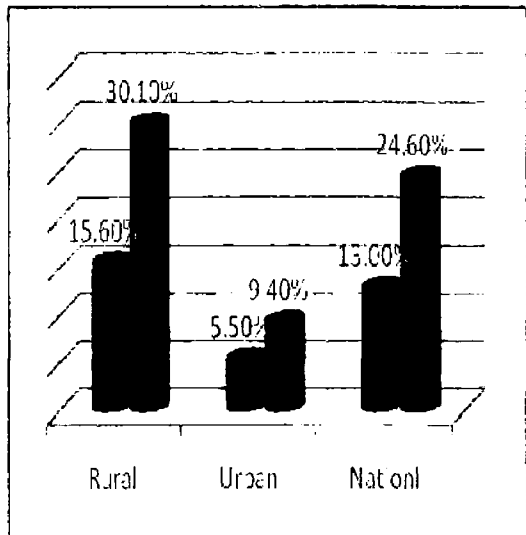


Figure: Households Benefiting from SSN

5.3.3 Household Income and Expenditure

Macroeconomic data shows that real GDP in Bangladesh has grown at an estimated rate of over 6 percent during 2005/06–2009/10. Estimates of household income, expenditure and food intake from the HIES show significant improvements during 2005–10. These data are consistent with a significant decline in poverty rates.

¹³⁹ *HIES Survey Report* (2010) BBS, available at: < www.bbs.gov.bd/home.aspx >, last accessed on 15 July 2014.

¹⁴⁰ *Ibid.*

Year	National	Rural	Urban
2010	11480	9648	16477
2005	7203	6096	10463

Figure: Average Monthly Household Income in Taka¹⁴¹

Year	National	Rural	Urban
2010	11200	9612	15531
2005	6134	5319	5833

Figure: Average Monthly Household Expenditure in Taka¹⁴²

5.3.4 Poverty Reduction and Poverty Headcount Rate

Though not satisfactory but a sizeable poverty reduction has occurred in Bangladesh in the last few years as the latest poverty map¹⁴³ shows. Poverty headcount rates based on both upper and lower poverty lines¹⁴⁴ using the Cost of Basic Needs (CBN) method show that the proportion of poor in the population declined considerably between 2005 and 2010.

Poverty Head Count Rate (%) from 2010 and 2005 HIES				
Residence	Upper Poverty Line		Lower Poverty Line	
	2010	2005	2010	2005
National	31.5	40.0	17.6	25.1
Rural	35.2	43.8	21.1	28.6
Urban	21.3	28.4	7.7	14.6

Table: Poverty Head Count Rate¹⁴⁵

¹⁴¹ Bangladesh Household Income and Expenditure Survey: Key Findings and Results (2010) BBS.

¹⁴² Ibid.

¹⁴³ Poverty Mapping is a statistical exercise to estimate the incidence of poverty at sub-national levels, which enables Govt. civil society organizations, and development partners to identify locations of poor areas with great accuracy. In Bangladesh the official poverty rates are produced at the national and divisional levels only using HIES. The latest poverty map is available at: <[http://www.bbs.gov.bd/webtestapplication/userfiles/image/Updating Bangladesh pm.pdf](http://www.bbs.gov.bd/webtestapplication/userfiles/image/Updating%20Bangladesh%20pm.pdf)> last accessed on 22 August 2014.

¹⁴⁴ HIES Survey Report. 2010. BBS, available at: <<http://siteresources.worldbank.org/BANGLADESHEXTN/Resources/BDSummaryBrochure.pdf>> last visited on 24 August 2014.

¹⁴⁵ HIES Survey Report (2005 & 2010) BBS, available at: <<http://siteresources.worldbank.org/BANGLADESHEXTN/Resources/BDSummaryBrochure.pdf>> last visited on 28 June 2014.

5.3.5 Rural and Urban Gap

While the rural-urban gap has closed slightly between 2000 and 2005, the gap still remains considerable. Rural poverty rate in 2005 was 44 percent, compared to an urban poverty rate of 28 percent. Rural areas account for 75 percent of the total population of Bangladesh, but 82 percent of the poor population which is not consistent with article 16 of the Constitution.¹⁴⁶

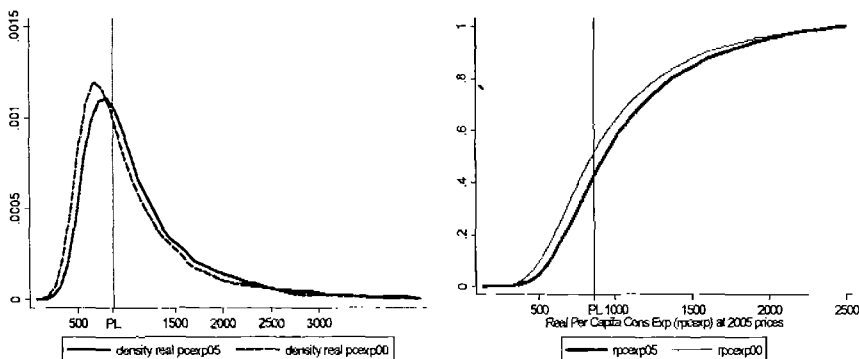


Figure: Rural and Urban Gap Comparison

5.3.6 Comparison to other South Asian Countries

Despite the progress in reduction of poverty Bangladesh still has a larger proportion of people living below the income poverty line, where it is defined as € 1.25 a day compared to many developing countries. Again the structure of the 'Bangladesh Economy' is in a slow steady of motion.

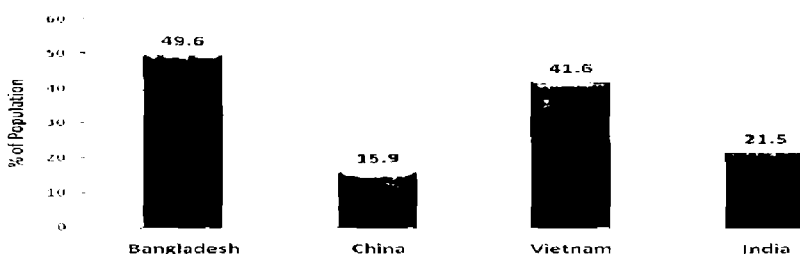


Figure: Poverty Headcount Ratio at \$1.25 a day (PPP) (% of population) in 2005

¹⁴⁶ Article 16 of the *Constitution of the People's Republic of Bangladesh* states that the state shall adopt effective measures to bring about a radical transformation in the rural areas through the promotion of an agricultural revolution, the provision of rural electrification, the development of cottage and other industries and the improvement of education, communication and public health, in those areas, so as progressively to remove the disparity in the standards of living between the urban and the rural areas.

Notwithstanding specific areas of progress, however, aggregate poverty rates remain dauntingly high. Pockets of extreme poverty persist. Inequality is a rising concern. Women continue to face entrenched barriers and insecurities in their attempts to consolidate their gains on social and economic fronts.¹⁴⁷ Governance weaknesses stand in the way of acceleration in the growth process. So, judging by current trends, breaking wholly free of the poverty chains remains a distant goal.

6. Combating the Poverty Paradox of Bangladesh within the Existing Framework

On the basis of the abovementioned data and information it is clear that some progress has been made in the arena of poverty reduction in Bangladesh.¹⁴⁸ However, the line of this reduction is unsteady and unsatisfactory. The way it advanced is very unpredictable and perhaps improper.¹⁴⁹ Several reasons may be connected to this.

The first and foremost reason may be attributed to the asinine conceptualisation of poverty. Here, poverty is still perceived as a material deprivation only or the failure to earn the livelihood.¹⁵⁰ According to the National Encyclopedia of Bangladesh, 'Poverty is an economic condition in which one is unable to enjoy a minimum standard of living. It is a state of existing in amounts (of earnings or money) that are too small to buy the basic necessities of life. The visible effects of poverty are malnutrition, ill health, poor housing conditions, and illiteracy. The impoverished people suffer from unemployment, underemployment and lack of access to resources.'¹⁵¹ This very concept of poverty is acute among the successive governments of Bangladesh, policy makers, NGO workers and development activists. But, recently poverty is regarded as less of material deprivation and more of failure to achieve basic capabilities to live in dignity.¹⁵²

¹⁴⁷ IMF, *Bangladesh Unlocking the Potential: National Strategy for Accelerated Poverty Reduction* (GED, 2005) ix.

¹⁴⁸ Pierella Paci and Marcin Jan Sasin, *Making Work Pay in Bangladesh: Employment, Growth, and Poverty Reduction* (World Bank Publications, 2008) 8.

¹⁴⁹ For example, the existing initiatives towards poverty reduction are carried out without linking with human rights.

¹⁵⁰ Paul Spicker, Sonia Alvarez Leguizamon and David Gordon 'Poverty: An International Glossary' (International Studies in Poverty Research, 2007) Volume 1, 172.

¹⁵¹ Available at <http://www.banglapedia.org/HT/P_0240.HTM> last accessed on 24 August 2014.

¹⁵² OHCHR, *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies* (2006) available at:

Owing to this dearth of knowledge regarding the perception of 'Poverty', the poverty reduction programmes, a) do not match with the real causes of poverty and of their beneficiaries; and b) are not so diversified to match with particular problem. The design and implementation of appropriate measures to enhance the economic condition of the poor have largely been the prerogative of national governments,¹⁵³ though influenced to an extent by large international agencies and individual donors.¹⁵⁴ In Bangladesh public development discourse is heavily influenced by donor agencies. As a result government efforts harmonized with global trend of coordinated strategy of poverty reduction.¹⁵⁵ The Government's anti-poverty action is more in line with aid discourse than any local knowledge as well as reality of particular people. This limitation of government strategy of poverty reduction gives space to the NGOs (Non-Government Organization) to work for poverty reduction. Their poverty perception is drawn from empirical data as well as information found during field visit.¹⁵⁶ The NGOs working in Bangladesh believe that the individual limitation cause poverty and that can better reduce poverty from the society having cognitive legitimacy.¹⁵⁷ This fundamental mistake of understanding both poverty as well as negating 'capability' approach work as a catalyst of not becoming the stakeholder as self-employed rather aid based. So, when the aid allocation diminishes the poor people get back their poor condition again and poverty persists.

The second reason may be attributed to the failure to the conceptual bridge between poverty and human rights. The conceptual framework

<<http://www.ohchr.org/Documents/Publications/PovertyStrategiesen.pdf> > last accessed on, 24 August 2014.

¹⁵³ UEMOA 'Regional Integration for Growth and Poverty Reduction in West Africa: Strategies and Plan of Action', (2006) available at: <<http://www.ecowas.int/publications/en/macro/srrp.pdf> > last accessed on 23 August 2014.

¹⁵⁴ Ware Newaz, *Impact of Micro – Credit Programs of Two Local NGOs on Rural Women's Lives in Bangladesh* (Academic Dissertation presented in the University of Tampere, 2003)

¹⁵⁵ Ibid.

¹⁵⁶ Saifuddin Ahmed, 'NGO Perception of Poverty in Bangladesh: Do their Programmes match the reality?', (2006) available at <<https://bora.uib.no/bitstream/handle/1956/1473/Masteroppgave-ahmed.pdf>> last accessed on 24 August 2014.

¹⁵⁷ Legitimacy is a generalized perception or assumption that the actions of an entity are desirable, proper or appropriate within some socially constructed systems of norms, values, beliefs and definitions. Cognitive legitimacy refers to the acceptance of a new kind of venture as a *taken for granted* feature of the environment.

presents a clear vision of a human rights approach to poverty reduction, a vision that explicitly encompasses accountability and empowering people as actors for their own development.¹⁵⁸ A human rights approach is also important from various other dimensions. According to the OHCHR:

A human rights approach is grounded in the United Nations Charter, Universal Declaration of Human Rights, and binding provisions of human rights treaties. Moreover, it sharpens the moral basis of the work carried out by economists and other policy-makers, directing their attention to the most deprived and excluded, especially those excluded by discrimination. It describes how a political voice for all people and access to information are integral to development. Informed and meaningful participation in development is a matter of right rather than privilege.¹⁵⁹

Furthermore, without this conceptual bridge, it is not convenient to view poverty as a violation of human rights. But, this very well-known edifice is well outside the ambit of poverty discourse. This is mainly because, in that case, it may result in certain obligations on duty bearers i.e., Government, NGOs, etc.

Then, the national poverty reduction arena is poor in quality and quantity as well as slow in development. Absence of adequate statutes to address poverty issue as well as the reluctance of the supreme judiciary to address the same is vigilant. A solid foundation of the rule of law is widely acknowledged as a necessary precondition for poverty reduction and equitable economic development.¹⁶⁰ But, the very idea is remote from the actual reality in Bangladesh.

The international framework developed by the world community on the other hand, still suffers from certain uncertainty and obscurity. The perception of poverty and its connection to human rights are still a matter of ongoing debate. Though accepting poverty as a violation of human rights is now becoming popular. But at the same time it raises some unresolved questions as well. For example, there is an emerging view that poverty constitutes a denial or non-fulfilment of human rights. But does this mean that poverty is the same thing as non-fulfilment of human

¹⁵⁸ OHCHR, *Human Rights and Poverty Reduction: A Conceptual Framework*, (New York and Geneva, 2014) 2 available at: <http://www.ohchr.org/Documents/Publications/PovertyReductionen.pdf>, last accessed on 23 August 2014.

¹⁵⁹ Ibid.

¹⁶⁰ R. V Van Puymbroeck, 'Law and Justice for Development' 2003 (1) *World Bank Leg. Rev.* 12.

rights in general – i.e., does the non-fulfilment of any kind of human rights constitutes poverty? Or should only certain kinds of human rights matter in the context of poverty? If so, how are we to decide which ones, and can the discourse on poverty be indifferent to the rest?¹⁶¹ Although those questions are answered by OHCHR in the following words:

The simplest approach to take would be the all-embracing one- i.e., to define poverty as non-fulfilment of any kind of human right. This approach would obliterate any conceptual distinction between poverty and non-fulfilment of human rights by definition, but it would not be appropriate to do so. For it would be farcical to characterise certain cases of non-fulfilment of rights as poverty, no matter how lamentable those cases may be.¹⁶² For instance, if a tyrant denies his political opponent the right to speak freely, that by itself would not make the latter poor in any plausible sense. Certainly a deprivation has occurred in this case, but it seems implausible to characterize this deprivation as poverty.¹⁶³

The reason it seems implausible is that when reconnoitered as a social problem, the concept of poverty has acquired a specific connotation that ties it closely with lack of command over economic resources.¹⁶⁴ Since, poverty entails some kind of bereavement, when it is ventilated as a social enigma, the concept has a much more restricted inclosure because of its well-settled congregation with deprivation caused by economic constraints. This link cannot be repudiated. A definition of poverty therefore, is necessary that refers to the non-fulfilment of human rights, but without delinking it from the interdiction of economic resources. It is argued that Amartya Sen's 'capability approach' furnishes a concept of poverty that replenishes these twin requirements.

Finally, the response of Bangladesh Government to international arena in poverty reduction is not satisfactory. It has escaped some of its responsibility by a) not ratifying the international instrument or b) by reserving some of its provisions. On the other hand, the instruments

¹⁶¹ OHCHR, *'Human Rights and Poverty Reduction: A Conceptual Framework'* (New York and Geneva, 2004) <<http://www.ohchr.org/Documents/Publications/PovertyReductionen.pdf>> last accessed on 24 August 2014.

¹⁶² Ibid.

¹⁶³ Ibid.

¹⁶⁴ For this reason Amartya Sen, who has done more than anyone else to broaden the concept of poverty, insists that "there are some clear associations that constrain the nature of the concept, and we are not entirely free to characterize poverty in any way we like." See, A. Sen, *Inequality Re-examined* (Cambridge, Harvard University Press, 1992) 107.

ratified or promised to comply with are not adequately complied with, i.e., Bangladesh has failed to attain the MDGs to many respects already.¹⁶⁵

So, the poverty study in Bangladesh readily lays itself open to the charge of concentrating too much exertion on the darker and more depressing aspects as a whole. Mass poverty still remains a stubborn and persistent problem here that appears to defy the solution.

6. Conclusion

Thus, the relationship between poverty and human rights is at once both simple and complex. The negative relationship between them is self-evident. The very concept of poverty talks about the denial of human rights and freedoms necessary to enjoy quality of life commensurate with human dignity. People living in poverty are in double jeopardy. They suffer a violation of their economic rights and not far away from the risk of discrimination and a denial of other civil and political rights. So, poverty is a complex human rights issue. Taking this view into consideration, in the context of prevailing global realities and human rights stream, the poverty reduction should eventually be emphasized. This can be done by, a) developing national poverty reduction framework, and b) complying with the international framework developed in collaboration with international human rights law.¹⁶⁶

Bangladesh, however, has never had a homegrown holistic dynamic strategic framework to combat poverty nor had a clearly articulated operational approach been developed to address the issue. As a result, what has served as a strategy for poverty reduction in Bangladesh has been like more than aggregation of a large number of various donor-funded micro projects¹⁶⁷ supplemented by some discrete domestically funded programmes. Where, poverty is accepted only as a material deprivation without linking with human rights. Therefore, the poverty reduction paradigm is very unsteady, improper and unpredictable. This is supportive by poverty data and scenario.

¹⁶⁵ Out of the 52 MDGs targets, Bangladesh is on track on 19 of them; and 14 of them need attention, available at: <<http://www.undp.org.bd/mdgs.php>> last accessed on, 24 August 2014.

¹⁶⁶ These two steps are very important because, i) a national framework works as a *sine qua non* to reduce this national problem of social injustice, and ii) poverty can be reduced to a substantial degree, if the obligations under the international human rights instruments are adequately and satisfactorily implemented. See, UN Fact Sheet No. 25, the Office of the High Commissioner for Human Rights (OHCHR), *Forced Evictions and Human Rights*, available at <<http://www.ohchr.org/Documents/Publications/FactSheet25en.pdf>> last accessed on 17 September 2014.

¹⁶⁷ Debapriya Bhattacharya and Rashed A M Titumir, 'Poverty Reduction in Bangladesh: Absence of a National Framework, an Abundance of Donors Strategies' (CPD Working Paper Series, Poverty, Inequality and Social Justice, paper 4) 2.

So, for a steady and progressive reduction of poverty, the establishment of conceptual framework between poverty and human rights is important on the one hand, as well as the development of a national framework in consonance with international one is urgent on the other hand. The sooner is better.