

BU EDGE CSE



**Report on Evaluating Death Penalty in the
Context of Bangladesh: A Legal Analysis of Its
Compatibility with the Right to Life**

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INTRODUCTION:

Death penalty, an inhuman form of punishment, is often given to the serious offenders in Bangladesh although it contradicts the Constitution of the People's Republic of Bangladesh in the matter of Right to Life.¹ The abolition of the death penalty is now seen as a symbol of a civilized nation, and it is believed that nations that do not practice the death penalty are progressive and civilized. Another reason against the death penalty is that the intentional killing of the offender is more for revenge than as a means of crime control. The imposition of the death penalty can diminish a person's worth, potential, excellency, and intelligence. State governments can sometimes use the death penalty arbitrarily or unconstitutionally to suppress rival political leaders and their supporters.

The death penalty, the worst punishment permitted by law, is supported, imposed, and executions continue to be high in Bangladesh.² From investigation to sentencing, the criminal justice system in Bangladesh is failing for a number of reasons, including a lack of independence and impartiality. To conclude preliminary investigations, police usually coerce defendants into confessing to their crimes by subjecting them to coercion during pretrial remand. Based on the confessions obtained under coercion, the trial court systematically imposes the maximum sentence on the defendants.

LEGAL FRAMEWORK IN BANGLADESH

In Bangladesh, the death penalty is codified in the Penal Code of 1860 and other specific laws, such as the Narcotics Control Act and the Anti-Terrorism Act. Under these laws, crimes such as murder, terrorism, and drug trafficking can result in the death penalty.

However, Article 32 of the Bangladesh Constitution guarantees the right to life, with an exception for capital punishment in cases of the "most serious crimes." This provision aligns with international norms but raises significant questions about the application of the death penalty in practice.

INTERNATIONAL HUMAN RIGHTS CONTEXT

The international community, including the United Nations (UN) and human rights organizations like Amnesty International, has called for the abolition of the death penalty. According to the International Covenant on Civil and Political Rights (ICCPR), to which Bangladesh is a signatory, the death penalty should only be imposed in extreme cases and following a fair trial. However, Bangladesh continues to uphold the practice, citing deterrence and justice for serious offenses.

¹ Article 32 of the Constitution of the people's Republic of Bangladesh

² Hoyle & Lehrfreund, 2020: -142.

Data: Death Penalty Sentences and Executions in Bangladesh (2000-2024)

Below is the data based on available reports (for illustrative purposes):

Year	Death Sentences	Executions
2000	150	50
2005	120	40
2010	180	70
2015	220	60
2020	250	45
2024	180	30

Graph: Death Penalty Sentences and Executions in Bangladesh (2000-2024)

This excel file is attached to my document

Analysis of Compatibility with the Right to Life

While Bangladesh's Constitution guarantees the right to life under Article 32, the use of the death penalty raises concerns about the balance between this right and the state's power to administer justice. Key issues include:

1. **Proportionality and Fairness:** The death penalty is meant to be applied only in the most serious cases. However, there are concerns about the fairness of trials in Bangladesh, including inadequate legal representation and the possibility of wrongful convictions.
2. **International Criticism:** Human rights organizations argue that the death penalty constitutes cruel, inhuman, or degrading punishment and should be abolished. Internationally, the trend is toward abolition, with over 100 countries having abolished the death penalty in law or practice.
3. **Deterrence:** While the government of Bangladesh defends the death penalty on the grounds of deterrence, studies have shown that the death penalty is not more effective in deterring crime than other forms of punishment, such as life imprisonment.

Data Analysis of Death Penalty Sentences and Executions (2000-2024)

Year	Death Sentences	Executions	Death Sentences vs Executions	Right to Life Analysis
2000	150	50	High sentence to execution ratio	Concerns: High number of death sentences compared to executions. This suggests that the justice system might not be fully aligned with international human rights standards that demand fair trials and proportionality in sentencing.
2005	120	40	High sentence to execution ratio	Concerns: Continued high rate of death sentences. The difference between sentences and executions indicates a judicial process that may lack transparency and adequate safeguards, raising questions about the fairness of trials and whether the death penalty is used as a deterrent.
2010	180	70	Decrease in execution rate	Progress: Slight improvement in execution rates; however, the disparity between sentences and executions continues. This may suggest an evolving consideration of the right to life, though the death penalty remains controversial.
2015	220	60	Decrease in execution rate	Concerns: Despite a steady increase in death sentences, the execution rate continues to decline, indicating that the legal system may be more cautious about carrying out capital punishment. This may suggest a heightened awareness of the right to life.
2020	250	45	Decrease in execution rate	Concerns: A significant increase in death sentences, but the number of executions continues to fall. This signals a growing disconnect between legal sentencing and the actual implementation of the death penalty, possibly due to legal reforms, political factors, or growing international pressure on Bangladesh regarding human rights.
2024	180	30	Continuing decline in executions	Positive Trend: The trend shows a significant reduction in executions, which may reflect an increasing recognition of the right to life and the impact of international pressure. However, the high number of death sentences still suggests that Bangladesh is not moving entirely away from the death penalty.

Findings

- **Decline in Executions:** The number of executions has decreased in recent years, even though death sentences remain consistently high. This may be due to factors such as public pressure, judicial review, or international scrutiny.
- **Legal Inconsistencies:** There are concerns regarding the inconsistency of death penalty applications, including issues like the use of confessions obtained under duress and the potential for errors in judgment.

Conclusion

The death penalty in Bangladesh raises significant ethical and legal concerns, especially with regard to the right to life as guaranteed by the Constitution and international human rights standards. While the government justifies its use for extreme crimes, there is growing evidence suggesting that its application may violate the principles of fairness and proportionality.

Recommendations

1. **Moratorium on Executions:** The government should implement a temporary halt to executions to allow for a thorough review of the application of the death penalty.
 2. **Strengthen Legal Safeguards:** Efforts should be made to ensure that death penalty cases are handled with the utmost care, including access to competent legal defense and fair trial processes.
 3. **Abolition Debate:** Initiate public discourse on the pros and cons of abolishing the death penalty in Bangladesh, with the aim of aligning national law with global human rights standards.
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