State Practice of Asian Countries in International Law

Bangladesh

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INTERNATIONAL ECONOMIC LAW – INTERNATIONAL
CONVENTION ON BIOLOGICAL DIVERSITY – AGREEMENT
ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY
RIGHTS – INTERNATIONAL CONVENTION ON PLANT
BREEDING FOR FOOD AND AGRICULTURE – AGRICULTURAL
DEVELOPMENT AND FOOD SECURITY – INTELLECTUAL
PROPERTY RIGHTS – WTO – TRIPS

Legislation

The Plant Variety Conservation Act 2019 (Act. No.6 of 2019)

Bangladesh passed this law under its obligation to (a) comply with its treaty obligations, specifically, under the TRIPS Agreement, 1995, the Convention on Biological Diversity (CBD), 1992 and the International Convention on Plant Breeding for Food and Agriculture; and to (b) protect the rights of breeders and farmers for agricultural development and food security. This law concerns the certification and protection of new plant varieties based on a central registration system, which would enable farmers and breeders to enjoy certain exclusive intellectual property rights. By adopting this law, Bangladesh has formally recognized the need to encourage, guide and assist the farmers for effective delivery of the benefits of plant research, variety development, seed production, use, distribution, marketing, export and breeding and conservation, not to mention the contribution of breeders and farmers in the conservation of plant resources in breed development and breeding activities in the public and private sectors.

The Act provides for a Plant Variety Conservation Authority (section 4), the functions of which include, inter alia, the determination, and publication of plant species and genus, registration, issuance, and cancellation of certification

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of plant varieties, determination of the method for inspecting applications on plant varieties conservation, the exchange of information on plant species conservation and establishment of regional and international cooperation in this regard, determination of rights and limitations thereto or suspension or revocation of the same, enforcement of the rights of breeders and farmers, and recognition of contribution to breed innovation and development (section 6). Headed by a Chairman, who would be accountable to the Government, the Authority shall be a legal entity and as such, can sue and be sued in its own name (section 10). The management and administration of the Authority shall vest in a Board of Directors composed mainly of relevant government personnel and scientists.

For purposes of this Act, the Authority may, by official gazette notification, determine the species and species of plants (section 14). 'Plant' (the genus) here denotes plant varieties having agricultural, food, medicinal, nutritional, and economic value and which can be used to protect the environment. The procedure for registration of plant varieties is given in section 15, which states that an application for certification must be made to the Authority in the prescribed form and accompanied by the prescribed fee. After examining the application, the Authority shall, if deemed appropriate, issue a certificate of registration as a protected variety of plant. Varieties so registered shall be stored in a register book with the necessary information in both manual and digital forms.

Section 16 spells out the qualifications that are required to be met by applicants seeking conservation of plant species, namely, Bangladeshi citizens or legal persons or institutions; a citizen of any other country or a lawful person or any organization having an office in Bangladesh; a citizen of Bangladesh or a lawful person who has invented a new species of plant while working in a foreign country or foreign organization or by way of any other collaboration and who has applied for protection under this Act with the permission of that country or organization; citizens or organizations of partner countries which are party to international conventions or agreements to which Bangladesh is also a party; any farmer or farmers' association claiming to be the authorized representative or heir of the breeder; and any state-run institution or institute or university or authority. If more than one breeder invents a new plant species, anyone or all may submit an application for conservation of the breed. If more than one breeder jointly breed or invent a new species of plant and are interested in jointly conserving the species, they may submit an application for conservation of the joint species bearing signatures of all. Where an employee of an organization breeds a plant, the head of the concerned organization or any authorized employee may apply for its preservation unless

there is anything to the contrary in his/her employment contract. If any person, organization, association, organization, or institution contributes to the invention of any protected breed, the said person, organization, association, or institution may apply to the Authority for registration of the protected breed (section 24). If the breed is found to be solely registered in the name of the breeder, the aggrieved person, organization, institution, and association may claim compensation. The Authority may issue a Certificate in recognition of the contribution of any person, community, or organization to the conservation and development of plant species. If any plant species invented by a breeder as a new species is eligible for certification but he has not applied for its preservation, it will be regarded as a national asset (section 25).

A plant species may be preserved if it meets the following characteristics, namely, (a) novelty, (b) distinctiveness, (c) uniformity, and (d) stability (section 19). Each preserved variety shall be marked by a group name (section 20).

The Act protects the rights of local farmers and their traditional knowledge (section 23). These include, *inter alia*, the right to apply for preservation of newly invented plant varieties; right to benefits arising from protected plant genetic resources, if such resources are used by the breeders to develop new varieties; the right to recognition by farmers and farmers' associations of the preservation of traditional knowledge of plant breeds used in food, agriculture and medicine; the right to participate in decision-making processes related to conservation and sustainable use of plant resources; and the right to seek cancellation of registration for farmers' traditionally used plant varieties, if such varieties are registered by the Government or private breeders in their names. Notwithstanding these various rights, a farmer may produce, reproduce, preserve, use, reuse, exchange or sell seeds of preserved varieties but not for commercial purposes.

Section 21 provides a comprehensive list of fields for which a breeder will require permission. The Authority is entitled to revoke the approval if the circumstances based on which the approval was first given do not exist; in such a situation, the breeder (whether a person or an organization) shall not be allowed to produce, sell, distribute or import the reserved variety. The Authority may restrict the rights of breeders in the use of reserved varieties in the public interest, namely, (a) prevention of disease; (b) conservation of the environment and biodiversity; (c) prevention of misuse of unilateral trade *i.e.*, if the price of seed is increased in the market by keeping the supply of preserved varieties intentionally insufficient compared to the demand, or if the

new plant variety is not marketed within 3 (three) years of registration; (d) any crisis related to state discipline; and (e) any other public welfare determined at the discretion of the Government [section 21(5)]. The Authority may also, with the approval of the Government, restrict the rights of breeders to the production, sale, distribution, import, or use of GMO varieties [section 21(6)].

The Authority may suspend or cancel the right given to breeder rights given under this Act on a number of grounds, namely, (a) if the variety lacked novelty or uniqueness at the time when certification was granted; (b) lack of acceptable limits or stability of homogeneity of plant species; (c) if the breeder fails to provide necessary information and materials within the prescribed time for verification of the maintenance of the plant species; (d) if the breeder fails to pay the registration fee within the prescribed time for the continuation of his rights; (e) if the name of a plant species is canceled after registration and the law does not offer any other suitable name within the stipulated time; (f) if the breeder does not pay the compensation related to any breed within the stipulated time; and (g) If the certificate of registration of reserved species has been issued to a person other than the one to whom it was to be given [section 22(3)]. However, before suspending or revoking the rights of a breeder, the Authority will give him notice stating the reasons thereof and direct him to submit a report on the activities performed by him within the period specified in the notice. The Authority scrutinizes the report and arrives at a decision, which shall be deemed final.

If a person falsely names a protected breed or voluntarily uses false information about a country or place, breeder, or his address during commercial use of a registered breed, it shall be deemed to be an offense for which he shall be liable for not more than 2 (two) years of imprisonment or a fine of a maximum of taka 5 (five) lakh or both. If a person produces, displays sells, trades any protected species by distorting information, he shall be punished with imprisonment for a term not exceeding 2 (two) years or a fine of taka 5 (five) lakh or both. If an offense under this Act is committed by a company, then its owner, director, manager, secretary, or any other official who was in charge of the business at the time the offense was committed, shall be held accountable, unless he can prove that the offense was committed without his knowledge or that he had tried his best to prevent the crime (section 26).

HUMAN RIGHTS – WORKERS’ RIGHTS – TERMS OF SERVICE – WORKING CONDITIONS – INDUSTRIAL RELATIONS

Bangladesh EPZ Labour Act 2019 (Act 2 of 2019)

This law was enacted with the purpose of regulating the employment of workers in the Export Processing Zones of Bangladesh and related matters, such as, the relationship between employers and workers, determination of minimum wages, payment of wages, compensation for workers’ injuries caused by accidents at the workplace, health, safety, etc. of workers and the formation of EPZ workers’ welfare society.

The Act explicitly states that recruitment of workers and other related matters shall be governed by this law; while an organization may well have its rules for recruitment (which require government approval), but they have to be aligned with the provisions of this law (section 4). Based on the type and nature of work, workers may be varyingly referred to as trainees, apprentices, temporary workers, and permanent workers (section 5). Definitions and tenures are prescribed for workers in each category. Appointment letters and identity cards must be given to all workers (section 6). Every employer is required to maintain a register of all workers for inspection by concerned authorities when necessary. No person shall be employed under compulsion or force (section 16). The Act promotes respect for women and prohibits indecent or obscene conduct towards females irrespective of the ranks in which they are employed (section 189).

The Act lays out concrete and extensive provisions on different aspects of the terms of service of workers and their working conditions. Key provisions are summarized below under selected heads for easy understanding.

Wages

Section 54 of the Act defines wages as (a) any bonus or other additional remuneration payable under the terms of employment; (b) any remuneration payable for leave, closure, or overtime; (c) any remuneration payable in lieu of a court order or any award or settlement between the parties; (d) any amount payable on account of termination, retrenchment, discharge, dismissal, removal, resignation or retirement as the case may be; and (e) any money payable due to lay-off or suspension. Every employer or authorized representative shall be liable to pay wages to all workers hired by him/her (section 55). Wages shall be payable on a monthly basis and must be paid within 7 (seven) working days after the expiry of the period for which the wages are to be paid (section 26).

All dues must be paid off within 15 (fifteen) working days following the separation of the worker from the employing entity (section 56). Except otherwise permitted by this Act, for example, by way of contribution to the provident fund and/or workers' welfare society and unauthorized absence from work, no deductions can be made from the basic wages of a worker (section 58).

In the event of death of a worker or if s/he goes missing, his/her wages shall be payable to his/her nominee; in the absence of a nominee or if for some reason the payment cannot be made to the nominee, the matter shall be referred to the EPZ Labour Court for action (section 59). A worker or his/her heirs or representative in interest may move the EPZ Labour Court for recovery of outstanding wages and dues in the event of delay or non-payment of wages or unjustified deductions, etc. in breach of the provisions of this Act (section 60). There can be no discrimination in terms of equal pay for workers for work of the same nature irrespective of their sex (section 197).

The Government may, with a view to fixing the minimum wage for workers, constitute the EPZ Minimum Wage Board (section 65) which will take into consideration the wage structures or minimum wages of industries outside of the EPZ in setting a minimum wage benchmark. No employer may pay any worker any wage less than the minimum rate so declared (section 71). Appropriate action shall be taken against an employer if he fails to comply with the minimum wage standard.

Working Hours

A worker shall not normally work or be employed in any organization for more than 8 (eight) hours daily (section 36) and not beyond 48 (forty-eight) hours in a week (section 40); however, s/he may work overtime but the total working hours shall not exceed 10 hours daily or 60 (sixty) hours in a week, and in any year it shall not exceed 56 (fifty-six) hours per week on the average. Exceptions will apply to special industries where adherence to the prescribed working hours may be relaxed for a maximum of 6 (six months) if the concerned authority is convinced of the necessity in the public interest or for economic development. Where a worker works overtime on any day or week, s/he shall be paid twice the amount of his/her basic wage, dearness allowance, and allowance for ad hoc work, as applicable (section 45).

The Act also prescribes rest periods that are proportionate to working hours, for example, no worker shall be obliged to work for more than 6 (six) hours daily unless s/he is allowed 1 (one) hour's break for rest and food; 5 (five) hours daily unless s/he is permitted 30 minutes break for food and rest, etc. (section 39). Where a worker works beyond midnight, s/he shall be entitled to a full 24 hours off at the end of his/her shift and the hours that

s/he worked past midnight shall be calculated with the working hours of the day before (section 43).

The Act prohibits a female worker from working between 8.00 PM and 6.00 AM unless she consents to it or she is permitted to do so by the Additional Inspector General of the concerned zone (section 46).

Leave and Holidays

The Act covers a wide range of leave that a worker shall be entitled to each calendar year. All leave shall be calculated according to the English calendar year. A worker may enjoy any general or special leave declared by the Government in addition to the leave s/he is entitled to. In addition, the employing authority may at any time declare a general holiday in an industrial establishment of any zone or at the same time in all industrial establishments of all zones, provided that this leave shall be deemed to be a normal working day and the employer shall pay the workers their due wages for the said leave. The procedure for leave and other matters related thereto shall be determined by the employing authority (section 9).

A worker shall be entitled 1 (one) day off every week and no deduction shall be made from his/her wages for such leave (section 41). Every worker shall be entitled to a casual leave of 10 (ten) days and a sick leave of 14 (fourteen) days with full pay each calendar year. In case s/he does not utilize the said leave, they will lapse and cannot be enjoyed in the following year (sections 50–51). Applicants for sick leave must be examined and declared sick by a registered physician before the leave is granted [section 51 (2)]. Every worker who has completed 1 (one) year of service shall be entitled to 1 (one) day of earned leave for every 18 (eighteen) days of work with wages (section 52). A worker may encash his/her unused earned leave in every calendar year in the manner prescribed by the employing authority [section 52 (2)].

Every worker shall be entitled to 11 (eleven) days of festival leave with wages in each calendar year (section 53). Every permanent worker shall be granted a festival bonus equivalent to 2 (two) months' basic wages on the eve of the relevant religious festival [section 53 (4)]. In case a worker is required to work during festival leave, s/he shall be granted compensatory leave with 2 days' wages within 30 (thirty) days from the date of work [section 53(3)].

Benefits

If a worker is entitled to provident funds including the employer's subscription, s/he cannot be deprived of this benefit due to his/her retrenchment, discharge, dismissal, removal, termination, retirement, or death (section 25). All workers,

other than temporary workers, shall receive a certificate of employment at the time of his/her retrenchment, discharge, dismissal, removal, termination, or retirement (section 26).

The Act has comprehensive provisions on maternity benefits. A female worker who is pregnant and entitled to maternity welfare benefits, shall notify the owner of her pregnancy and seek maternity welfare benefits in the prescribed manner (section 31). Maternity welfare benefits are to be paid daily, weekly, or monthly, as applicable, in full cash at the average wage rate (section 32). Every female worker shall be entitled to maternity leave of a total of 4 (months) of which she may avail of 8 (eight) weeks before the probable date of delivery of the child and 8 (eight) weeks immediately after the delivery (section 30). However, this entitlement will accrue to a female worker only if she has worked under her employer for at least 6 (six) months immediately before the delivery of her child. Besides, no female worker shall be entitled to maternity-related welfare benefits, if she has 2 (two) or more surviving children at the time of delivery, in which case she shall only be entitled to any leave.

Employers are prohibited from engaging any female worker within 8 (eight) weeks immediately after childbirth (section 29). No employer may employ a female worker to carry out difficult or laborious or work that requires her to stand for long hours or which may be detrimental to her health, if he has reason to believe or if the female worker has notified that she is expected to give birth within 10 (ten) weeks or has given birth in the past 10 (ten) weeks [section 29(3)]. In case a female worker entitled to maternity welfare benefits dies during childbirth or within 8 (eight) weeks after childbirth, the employer shall provide the welfare benefits to the person as prescribed by the regulations (section 33). If the female worker dies before delivery, the employers shall provide benefits for the duration preceding her death. A female worker shall not be deprived of maternity benefits even if the employer issues an order for her discharge, dismissal, removal, or termination of employment within 6 (six) months before childbirth or 8 (eight) weeks after childbirth (section 34).

Workplace Health and Safety

Section 35 of the Act prescribes specific measures to ensure workplace safety and a healthy working environment for workers. These include, inter alia, provisions for – maintenance of factory buildings and interiors; safe use, storage and transportation of goods and substances; protection against fire, toxic chemicals, gas, smoke, vapor, and dust; personal protective gear; first aid equipment; fire extinguishers; and appropriate training for workers on occupational health and safety measures. The Act requires the establishment of separate and

adequate number of toilets and laundry rooms for male and female workers in each establishment and provisions for the adequate supply of safe drinking water for all workers; preventive measures against potential physical injury, poisoning, or disease. In addition to these various measures, the Act calls for appropriate arrangements for the removal of production-related waste material; arrangements to ensure cleanliness, hygiene, and proper ventilation; machinery to help workers lift and hoist excess weight, etc. Every EPZ must have a medical center to attend to the health needs of the workers (section 37).

The owner of an establishment that employs at least 25 (twenty-five) permanent workers must introduce a group insurance scheme in addition to other entitlements prescribed by this Act (section 36). If any insurance claim is raised under this Act, it shall be settled by the insurance company and the owner jointly within 120 (one hundred and twenty) days.

Separation from the Organization/Industry

The Act covers different aspects whereby a worker may be separated from the employing establishment. Separation may occur by way of lay-off, retrenchment, discharge, termination, resignation, and retirement from work.

Lay-off/Retrenchment

A worker may be laid off from an organization when the number of workers exceeds the required necessity (section 19). When a worker who is included in the master roll of the establishment and who has completed at least 1 (one) year of service, is laid off, s/he shall be entitled to be compensated for the days s/he is laid off (section 15). When retrenching a worker who has been working continuously for at least (1) one year, s/he must be served a written notice explaining the reasons for his/her retrenchment or be paid wages in lieu of notice for the duration of the notice period. The owner must also pay the worker a compensation equivalent to 30 days' wages for every year of service so far rendered. A worker who has been laid off will be given priority in recruitment if s/he applies for re-employment.

Discharge

A worker may be discharged from the job due to physical or mental disability or continued ill-health, certified by the doctor of the medical center of the concerned zone or any registered physician (section 20). If the concerned worker has completed at 1 (one) year of uninterrupted service, s/he shall be entitled to 30 (thirty) days basic wage as compensation.

Termination

An employer can terminate any worker by giving 120 (one hundred and twenty) days' written notice in case s/he is a permanent worker and 60 (sixty) days of written notice in case of other workers (section 22). In the event of termination of the employment of a permanent worker, the employer shall pay him/her 30 (thirty) days' wages as compensation in addition to other benefits payable to the worker under this Act. If the employer wishes to terminate the worker without notice, he may do so, but in that case, the worker must be paid wages for the entire notice period, as applicable.

Dismissal

Notwithstanding anything contained in this Act regarding lay-off, retrenchment, discharge, and termination of employment, a worker may be dismissed without notice or in lieu of notice without pay, if he is penalized for committing a criminal offense or is convicted for misconduct (section 21). Where a worker has been accused of misconduct, unless the matter is pending before the EPZ Labour Court, s/he may be suspended during the investigation for a total period of 60 (sixty) days. During this time, s/he shall be entitled to half of his/her average wage, dearness allowance, half of ad hoc or interim wage, if applicable, as food allowance and other relevant allowances at the full rate.

Resignation

A permanent worker may resign from his/her job by giving 30 (thirty) days' written notice to the employer. A temporary or any other worker may do the same but by giving 15 days' written notice (section 23). In case the worker wishes to resign without notice, s/he may do so by paying the employer the same amount of wages for the applicable notice period.

When a permanent worker resigns from service, the employer shall compensate the worker for each full year of service by paying him/her (a) 15 (fifteen) days' wages if s/he has been working continuously for 5 (five) years or more, but less than ten years; (b) 30 (thirty) days' wages, if s/he has been employed continuously for 10 (ten) years or more time but less than 25 (twenty-five) years.

Retirement

A worker shall normally retire after completing 60 (sixty) years of service (section 24); however, s/he may choose to retire any time after completing 25 (twenty-five) years of service by giving 30 (thirty) days' written notice before

the probable date of retirement. When a permanent worker retires from service, s/he shall either be paid 45 (forty-five) days' wages as compensation for each full year of service, in addition to other benefits that s/he is entitled to receive under this Act or be paid dues as per the rules of the employing company.

Grievance

Any worker, including those who have lost their jobs due to lay-off, retrenchment, discharge, dismissal removal, or any other reason, has any grievance, s/he may seek redress by way of lodging a written complaint to the owner within 30 (thirty) days from the date when the cause of grievance became known to him/her (Section 28). The investigation and disposal of the complaint shall be guided by regulations.

Compensation

The Act has elaborate provisions on compensation in case of workplace injury. If a worker is injured in an accident while on the job, the employer shall compensate him/her in accordance with the provisions of this law, or as the case may be, the rules or regulations (section 73). However, a worker shall not be entitled to any compensation – if her/his performance is not fully or partially affected for more than 3 (three) days; or, if the worker was under the influence of drugs or alcohol at the time of the injury; or, if the injury occurred as a result of deliberate disregard or disrespect for explicitly stated safety rules and instructions; or if the injury resulted from deliberate removal of safety equipment or non-compliance with any other injury prevention technique.

A worker waives his/her right to compensation for injury if s/he has filed a suit in the civil court seeking compensation for such injury. However, no suit will lie in the civil court if the concerned worker has filed an application in the EPZ Labor Court seeking compensation for the said injury; or if there is an agreement between the owner and him/her concerning compensation for injury in accordance with the provisions of this law. The amount payable as compensation shall vary according to the degree of the injury, i.e., death, partial permanent disability, full permanent disability, or partial temporary disability (section 74).

Closure

In case of an emergency like a fire, epidemic, riots, power outage, or malfunction of equipment and machinery, the owner may at any time close down the establishment parts or branches thereof (section 11). While so doing, the owner shall notify the concerned authority and the workers about the closure.

Collective Bargaining

Subject to the provisions of this law, workers of any zone shall have the right to form and join a duly registered Workers' Welfare Association (section 93). The purpose of this Association will be to engage with employers/owners on matters pertaining to labor relations. The elected representatives of the Workers' Welfare Association shall be the collective bargaining agents representing workers' rights and interests in a given establishment (section 119). The collective bargaining agent can also declare strikes and give notice thereof.

Dispute Resolution

If an owner or collective bargaining agent foresees potential labour unrest, they shall inform each other in writing and prepare for discussions to contain the problem (section 124). They will seek the assistance of arbitrators, where necessary. If negotiations fail, the owner or workers can declare a lock-out or strike (section 131).

ENVIRONMENTAL LAW – SUSTAINABLE DEVELOPMENT – RIGHT TO LIFE – STOCKHOLM DECLARATION – RIO DECLARATION – WORLD COMMISSION ON ENVIRONMENT AND DEVELOPMENT – DOCTRINE OF PUBLIC TRUST

Judicial Decisions

Human Rights and Peace for Bangladesh v. Government of Bangladesh and others, Writ Petition No. 13989/2016, High Court Division of the Supreme Court of Bangladesh (Special Original Jurisdiction), judgment delivered on 30.01.2019 and 02.02. 2019

A writ petition was lodged at the High Court Division of the Supreme Court of Bangladesh following a newspaper report on the illegal encroachment and construction on the river Turag. It was alleged that indifference and inertia of relevant government agencies in taking corrective action against the illegal activities of some vested quarters was fast destroying the river. In response to the writ, the Court issued a Rule Nisi calling upon the respondents to show cause as to why inaction on their part to stop the illegal encroachment and filling of the river Turag and construction thereon should not be declared illegal and without lawful authority and why the respondents should not be directed to take necessary measures to stop the alleged illegal activities and remove the earth fillings and structures at the cost of the encroacher. Based on

the findings of an investigation undertaken on the direction of the Court, the Court ordered the eviction of the encroachers. Some of the encroachers submitted an affidavit in opposition claiming that they had bought relevant parts of the land following due process and it would be unfair and unjust if they were evicted from their lands. In the absence of concrete evidence in support of the opponents' claims, the learned Court dismissed them.

In delivering its decision, the Court acknowledged various media reports that highlighted how different rivers and water bodies of Bangladesh, including the Turag river, were being polluted, illegally filled, and being used for illegal constructions by private sector business entities and powerful individuals with vested interests to the detriment of the environment. Recalling that water was the essence of life and how it impinged on people's lives and livelihoods and in turn, the economy of Bangladesh and recognizing the irreversible damage caused by pollution and illegal encroachment on the Turag river and the imminent threat to the very existence of the people, the learned Court, in a final bid to save the Turag river, declared it a "legal person" and opined that as of the date of this judgment, all other rivers would also be treated as legal entities. To this end, the Court issued orders and directives to ensure the effective execution of the judgment. In arriving at this decision, the Court extensively drew on, *inter alia*, the Doctrine of Public Trust, relevant provisions of the Stockholm Declaration and the Rio Declaration, Asian Human Rights Charter, Precautionary Principle, and Polluters Pay Principle.

The Court substantiated its arguments by referring to legal enactment on related matters by the Parliament of New Zealand, relevant provisions in the Constitution of Ecuador, and numerous case law from international jurisdictions, e.g., the Colombian Constitutional Court decision which declared the Atrato river as a "subject of rights", *Uttarkhand in Mohd. Salim vs State of Uttarkhand and others* [writ petition PIL No.126 of 2014], the *Mono Lake case* [39 Cal.3d. 419], *Arnold vs Mundy* [6N.J.L.1, (1821), 10 Am Dec. 356, 1Halst.1], *Canadian Forest Products Ltd. vs Her Majesty the Queen in Right of the Province of British Columbia* [2 S.C.R. (2004) SCC 38 (CanL 11)], *Municipal Corp'n. of Mumbai vs Kohinoor CTNL Infrastructure Co. (pvt.) Ltd.* [4 SCC (2014) 538], *State (NCT of Delhi) vs Sanjay* [9 SCC (2014) 772], *Association for Environment Protection vs State of Kerala and others* [7 SCC (2013) 226], *Intellectuals Forum Tirupathi vs State of A.P.* [AIR (2006) 1350], *T.N. Godavarman Thirumulpad vs Union of India* [AIR (S.C.) 2005, 4258], *Gann vs Free Fishers of Whitstable* [House of Lords, 3 March 1865, 11 ER 1305 (1865) 11 HL Cas.192], *Kinlock vs Secretary of State for India* [7 App. Cas. 619 (1882) 325–26, 630], *Shri*

Shachidanand Pandey and another vs State of West Bengal and Others [AIR (1978) (S.C.) Calcutta 1109], M.C. Mehta vs Kamal Nath [1 SSC (1997) 388], and K.M. Chinnappa vs Union of India and others [AIR 2003].

**HUMAN RIGHTS – WOMEN’S RIGHTS – VIOLENCE AGAINST
WOMEN – BEST INTERESTS OF THE CHILD – FAMILY UNITY –
ENDS OF JUSTICE**

Md. Shafiqul Islam v. State and others, Criminal Miscellaneous Case No. 10085/2016, High Court Division of the Supreme Court of Bangladesh, judgment delivered on 10. 04.2019

The petitioner moved the High Court Division seeking to quash the decision of the Women and Children Repression Suppression Tribunal, which found the petitioner guilty of repeated incidents of physical violence against his wife, often causing her grievous injury, for failing to fulfill his demands for dowry. He was sentenced to three years’ rigorous imprisonment and taka 50,000 fine by the said Tribunal.

At one stage of the hearing of the petition at the High Court Division, the wife informed the Court by way of an affidavit, that during the ongoing case she has reconciled with her husband; they had settled their differences and have since been leading a happy married life. In the meantime, a son was born to them. In the circumstances, she prayed to the Court for amicable disposal of the matter.

The Court condemned the abusive behavior of the husband but recognized the social and economic repercussions of a broken family. Taking into consideration the overall situation, in particular, the best of interests of the child that was born to them in the meantime and who needed a stable family, and the fact that most of the offenses committed by the husband under the Women and Children Repression Suppression Act were compoundable, the Court went beyond “mechanical” application of the law, took a lenient view for the ends of justice and absolved the husband of his liability.

Bilateral Agreement/MOU

Promotion of Bilateral Cooperation between Bangladesh and Bhutan, Dhaka 13 April 2019

Bangladesh and Bhutan signed five bilateral agreements during a 4-day official visit of the Bhutanese Prime Minister to Bangladesh. These instruments are expected to enhance cooperation in respect of cargo transportation, health, agriculture tourism sectors, and Public Administration training centers of the two countries for exchange of faculty members as well as training and capacity building.

Government to Government and Private to Private Entity Cooperation in Selected Fields between Bangladesh and Brunei, Brunei Darussalam on 22 April 2019

Several Memorandums of Understanding (MoUs) were signed by Bangladesh and Brunei during the Bangladesh Premier's official visit to Brunei Darussalam on 21–23 April 2019. The MoUs were concluded between the two governments and between private sector entrepreneurs of the two countries.

The Government to Government MoUs were on cooperation in the fields of (i) Scientific and Technical Cooperation in Agriculture; (ii) Fisheries; (iii) Livestock; (iv) Supply of Liquefied Natural Gas (LNG); (v) Youth and Sports and (vi) Culture and Arts. In addition to the MoUs, both countries agreed on the Exchange of Notes on the "Visa Waiver" arrangement for diplomatic and official passports.

The private to private cooperation agreements included (i) collaboration between the National Chamber of Commerce and Industry Brunei Darussalam (NCCIBD) and the Federation of Bangladesh Chambers of Commerce and Industry (FBCCI); (ii) Joint Collaboration for the Provision of Professional Skills Development and Training in Petroleum Geoscience between Dimension Strata SDN BHD and Green Power Limited Bangladesh and Environment Science, University of Dhaka; (iii) MoU between Ghanim International Cooperation SDN BHD and Taj Food Industries Limited, a subsidiary of the Nizam Group of Companies, for bilateral cooperation in the Halal Food Sector.

Bilateral Investments between Bangladesh and South Korea, Dhaka, 14 July 2019

Bangladesh and South Korea signed three instruments in Dhaka on 14 July 2019 to accelerate bilateral investment, cultural exchange, and capacity development of diplomats. The instruments included a (i) Memorandum of Understanding (MoU) on cooperation between the Korea National Diplomatic Academy of Ministry of Foreign Affairs and the Foreign Service Academy of the Ministry of Foreign Affairs of Bangladesh; (ii) Memorandum of Understanding (MoU) between the Korean Trade-Investment Promotion Agency of South Korea and Bangladesh Investment Development Authority on cooperation in the field of investment promotion; and (ii) Cultural exchange program between Bangladesh and South Korea for the years 2019–2023.

Statements at the United Nations

SUSTAINABLE DEVELOPMENT – AGRICULTURE – FOOD SECURITY – NUTRITION

*Statement at the Second Committee Plenary during the adoption of
the Resolution on “Natural Plant Fibres and Sustainable Development”,
21 November 2019, Conference Room 2, UNHQs, New York.*

Bangladesh reiterated the importance of the diverse range of natural plant fibers in providing farmers with a source of income and contributing to poverty eradication. Recognizing that the promotion of these fibers, particularly the lesser-known ones, such as Jute, Abaca, Coir, Kenaf, Sisal, Hemp and Ramie, would contribute to the achievement of the SDGs, Bangladesh articulated how it has adopted policies aimed at transforming the agriculture sector, promoting rural development, empowering the marginalized people and protecting smallholder farmers and small-scale producers to induce economic, social and environmental benefits. Bangladesh acknowledged the support of member states across the regions in its effort to raise the matter of natural plant fibers in a UN resolution as a development issue for the first time and hoped that this resolution would foster scientific research, development and cooperation at national, regional and global levels to ensure, in addition to its traditional use, value-added and innovative use of all lesser-known natural plant fibers.

**ENVIRONMENTAL LAW – CLIMATE CHANGE – PARIS
AGREEMENT – INTERNATIONAL PEACE AND SECURITY –
SUSTAINABLE DEVELOPMENT**

Statement at the Open Debate on “Addressing the impacts of climate-related disasters on international peace and security”, 25 January 2019, UNSC Chamber, UNHQs, New York

Recognizing that disasters induced by global climate change have the potential to trigger major security concerns, Bangladesh reiterated the urgent need to limit global warming to avert grave risks to the survival of people and communities across the world. Recalling that it is amongst the countries that are worst affected by climate change, Bangladesh highlighted its plans for ‘carbon budgeting’, ‘de-carbonization of manufacturing pathways’, and ‘low-carbon industrialization’. Bangladesh is committed to implementing its Nationally Determined Contributions in the framework of the Paris Agreement and has accordingly mainstreamed climate actions and disaster management in national planning and sustainable development strategy. The statement articulated how Bangladesh has been able to reduce casualties in incidents of natural disasters by bringing improvements in the early warning system, dissemination of information, the establishment of cyclone shelters, and active engagement of dedicated Cyclone Preparedness Program volunteers in preparedness and response activities. Bangladesh observed that tackling climate change and managing risks will largely depend on the implementation of the 2030 Agenda, the Paris Agreement, the Sendai Framework, and the Global Compact on Safe, Orderly and Regular Migration. Bangladesh stressed that the big emitters must aim for rapid mitigation of GHGs. In addition, financial resources and technology transfer to climate-vulnerable countries for supporting their adaptation efforts would address threats to international peace and security posed by climate change and related disasters, especially in some places, for example, Africa and SIDS countries.

**HUMAN RIGHTS – INTERNATIONAL PEACE AND SECURITY –
RECONCILIATION – TRANSITIONAL JUSTICE**

Statement at the UN Security Council Open Debate on “The Role of Reconciliation in Maintaining International Peace & Security,” 19 November 2019, New York

Bangladesh observed that reconciliation was a useful instrument for sustaining peace and preventing the recurrence of conflicts, in both inter-State and intra-State settings. Appreciating that reconciliation involves a wide range of issues starting from ensuring the rule of law, accountability, and transitional justice; promoting sustainable economic growth, national ownership, social cohesion, gender equality, to the protection of human rights and fundamental freedoms, Bangladesh urged all concerned to work together to prevent the recurrence of conflict and promote durable peace and security – domestically, regionally, and globally. It shared its experience of reconciliation efforts in the Chittagong Hill Tracts to ensure sustainable peace and harmony amongst the ethnic minorities and mainstream populations. Drawing on domestic and international lessons, Bangladesh maintained that reconciliation was a powerful tool for resolving the Rohingya humanitarian crisis that has been plaguing Bangladesh for quite a while. In this regard, Bangladesh underpinned the need for clearly defined strategies for reconciliation to be implemented with transparency and objectivity, a mechanism to address core grievances including gross human rights violations, and active participation of women and young people in the reconciliation process.

**HUMAN RIGHTS – EQUALITY – NON-DISCRIMINATION –
SOCIAL JUSTICE – INCLUSION**

Statement On Agenda Item 68: “Elimination Of Racism, Racial Discrimination, Xenophobia, And Related Intolerance” Before The Third Committee, 74th UNGA, 30 October 2019, UNHQS, New York

Expressing its unequivocal stand against racial discrimination, Bangladesh stressed its zero-tolerance policy towards all forms of terrorism, violent extremism, and radicalization. Referring to its flagship General Assembly resolution on the “Culture of Peace”, which receives overwhelming support every year, Bangladesh testified to its unrelenting commitment to the principle of inclusion

and peaceful co-existence of diverse groups. The statement highlighted the discrimination and deprivation experienced by the Rohingyas and called for effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Durban Declaration and Programme of Action for the elimination of racial discrimination. Bangladesh underscored that the 2030 Agenda for Sustainable Development also flags the necessity to build peaceful, just, and inclusive societies based on respect for human rights for all and called for collective efforts to create a society based on tolerance, inclusion, justice, equality, equity, and respect for human rights.