

Denial of Human Rights through the implementation of Dark Laws: An analysis from the Legislative perspective of Bangladesh

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Abstract

Following the independence of Bangladesh, the implementation of multiple repressive laws has significantly compromised basic human rights, freedom of expression and the rule of law. This study specifically analyses how the Cyber Security Ordinance 2025, Special Powers Act 1974, and other contemporary controversial laws are being established by the state, abusing power and exerting control over citizens, despite the government's reliance on these laws to effectively manage crises. The research was originally conducted using a mixed methodology, where data was collected from combined legal-document review, case-law analysis, news coverage, and reports issued by human-rights bodies. Furthermore, practical experience and impact have been evaluated based on interviews with multiple human rights activists and legal experts. The analysis reveals that these laws foster a culture of abuse, arbitrary arrests, harassment; instill fear and self-censorship within the media, civil society, and the public at large and the contexts are compared with other countries. It is imperative, based on research, to urgently revisit and amend such laws to ensure consistency with international human rights standards. Alongside, effective initiatives must be undertaken to safeguard the independence of the judiciary from executive pressure, enhance transparency in the enforcement of the law and build public awareness of citizens' rights. This study aims to promote a well-structured policy and informative discussion on building a democratic and humane state that actively plays a vital role in protecting justice and human rights.

Keywords: Human Rights violation, State Power abuse, Mixed Methodology, Legal Reform.

Introduction

This paper examines how Bangladesh's security-orientated legislation colloquially known as 'Black Laws', which we have termed 'Dark Laws', has emerged, been applied, and affected human rights outcomes. From the proliferation of preventive detention in the post-independence period to the Special Powers Act, 1974, the Bangladesh Telecommunication Act, 2001, the Information and

Communication Technology Act 2006, the Digital Security Act, 2018, and the recent Cyber Security Act (2023/2025), these laws, while created under the pretext of political instability, technological change or national security, have in reality been used as tools to increase executive power.

The analysis extends to the conduct of the Rapid Action Battalion (RAB), incidents of extrajudicial killing, and the recurring misuse of Sections 54 and 46 of the Code of Criminal Procedure 1898, provisions that have repeatedly been used to justify arrest without meaningful cause, harassment, and intrusion into civil liberties. How these legal frameworks violate fundamental rights enshrined in the constitution, the independence of the judiciary, and international human rights standards such as the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR) are presented based on various cases, human rights reports, and comparative analysis.

Overall, the paper argues that many of these laws increase state control and centralization of power rather than public safety; therefore, more transparent, and human rights-based legal reforms are necessary to restore democratic governance and the rule of law.

Concept of Dark Law

Legislation is, in principle, meant to serve public welfare and protect national security. Despite that certain laws have evolved to represent repression rather than protection in the framework of the governmental authority, this paper has named such laws as “Dark Law” which is referred as “Black law” in Bangladesh context. The state is using various Dark laws and principles to restrict citizens' freedom of speech under the pretext of “state security” and “suppression of terrorism”, such as: The former Digital Security Act 2018 and Cyber Security Act 2023 gave the government the power to regulate opinion through digital means; the Special Powers Act 1974 allowed the state to detain someone indefinitely in the name of protecting “public safety”. However, prior the enactment of this acts the Constitution of the People’s Republic of Bangladesh, 1972, Article 33 through 2nd Amendment introduces Preventive Detention. “Preventive Detention means detention of a person without trial and conviction by a court, but merely on suspicion in the 4 minds of the executive authority.” As referred to the case *R v. Halliday* (1917), Lord Atkinson said, “.... where preventive justice is put in force some sufferings and inconveniences may be caused to the suspected persons. This is inevitable. But the suffering is...inflicted for something much more important than his liberty or convenience, namely for securing the public safety and the defence of the realm.”

It is a prime example of the violation of Human Rights, despite having the section 54 of the Code of Criminal Procedure, 1898, which states that any person arrested without warrant shall not be detained for more than twenty-four hours and must be presented before the nearest Magistrate within the time excluding the journey according to the Article 33(2), “Every person who is arrested

and detained in custody shall be produced before the nearest magistrate within a period of twenty four hours of such arrest..”, (Government of Bangladesh, 1972, Art. 33(2)), of the Bangladesh Constitution & Section 61 of the Code of Criminal Procedure, 1898. Section 61 clearly states, “No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.” However, article 33 (4) & (5) and the Special Powers Act, 1974, say otherwise, which are contrary to human rights. The inclusion of section 3, which states, “...preventing him from doing any prejudicial act...”, the meaning of prejudicial act is stated in section 2, so that the Government can use this as an excuse to defend themselves, because this section does not mention the obligatory presence of the detained before the Magistrate. Again, there is also ambiguity in Sections 46 & 54 of the Code of Criminal Procedure, 1898. Although the Special Powers Act 1974 is statutorily valid, it contravenes Article 31 and 32 provides “Right to Life and Liberty” of the Constitution. The Cybersecurity Act 2023 is legally valid, but it is contradictory to Article 39, which provides “Freedom of Expression”.

Research Objective

The main objective of this research is to analyse how repressive and controversial laws in Bangladesh, such as Preventive Detention, the Special Powers Act 1974, the former Digital and its successor cyber-security legislation, the Armed Police Battalions (Amendment) Act, 2003, and patterns of extrajudicial killing violate constitutional rights, independence of the judiciary and international human-rights obligations. It also explains the political misuse of these laws, executive dominance, limitations of judicial control and the theoretical concept of “Dark Laws”. Finally, the main goal of the research is to propose practical recommendations for legal reform, accountability, and human rights protection.

Research questions

The study sought answers to the following basic questions: -

RQ1: How do the Special Powers Act 1974, the earlier Cyber Security Act 2023, Sections 54,46 of the Code of Criminal Procedure, 1898, and other “Dark Laws ” limit human rights and constitutional freedoms?

RQ-2: What is the historical, political, and administrative context in which these laws were enacted?

RQ3: How effective is the judiciary in enforcing these laws? Does executive interference weaken judicial independence?

RQ4: To what extent is the current human rights situation in Bangladesh compatible with international treaties, UDHR, ICCPR, and CAT?

RQ5: What are the areas where these laws need to be amended or repealed, and what kind of policy reforms can take the country on a more democratic and Human Rights path?

Theoretical & Conceptual Framework

Repressive or “Dark Laws” analysis in Bangladesh requires a strong theoretical framework that explains the interrelationships among law, politics, society, and state power. The conceptual framework of this research is built on the light of four basic theories and jurisprudence. This framework refers to how the state creates legitimacy of power through legislation and enforcement, and how human rights abuses occur under the guise of that legitimacy:

1. Power and Knowledge Theory (Michel Foucault): According to the French philosopher Michel Foucault (1975), Power and Knowledge are inextricably linked. The state legitimises the exercise of power and regulates civil behaviour through legislation, administration, and the judicial system.

In the case of Bangladesh, there are also ambiguities in the sections of various laws. As we know, laws are created for the safety of the people of the state, but in some cases the laws are being used for political purposes. Again, the state is using various Dark laws to restrict citizens' freedom of speech under the pretext of “state security” and “suppression of terrorism.” According to Foucault, it is a type of disciplinary power in which the citizen is constantly “monitored” (Foucault, Discipline and Punish, 1975). In this theory, prisons are said to symbolise social control and digital surveillance in the modern state is the transformation of that control. Relevant examples: In 2024, Reporters Without Borders (RSF) reported that more than 50 websites have been blocked by the government in the field of online journalism in Bangladesh, and 47 journalists have been arrested under the Digital Security Act/Cyber Security Act.

2. Legal Positivism vs. Natural Law: According to the theory of Legal Positivism, Jeremy Bentham & John Austin claimed that law is the order of the state, whether it is just or unjust; legitimacy determines the state. On the other hand, natural-law theorists, Aquinas, Locke & Rousseau say the validity of law depends on the principle of justice; if a law goes against human rights, it is an “unjust law”. This conflict is evident in the context of Bangladesh, and when a law is made in conflict with articles of the Constitution and Fundamental Rights, it is eligible to be repealed according to Article 26 of the Bangladesh Constitution, “Laws inconsistent with fundamental rights to be void” (Government of Bangladesh, 1972, Art. 26).

This analysis suggests that Bangladesh's repressive laws are largely the result of the legal Positivism clause, which prioritises state interests over moral justice. Amnesty International in

2024, states in their report, " a series of cybersecurity laws regulate the suppression of Digital Security Act through legitimising free speech."

3. *Doctrine of Proportionality*: The principle of Proportionality is a modern constitutional principle, which aims to ensure that administrative or legal decisions can limit citizens' rights, but must be "fair, reasonable and necessary." In *Bangladesh National Women Lawyers Association v. In the Government of Bangladesh* (2008) case, the court said that if the laws of the state exceed the limits of fundamental rights, then it is unconstitutional. However, the court's application of this principle to repressive laws is almost absent. For example, Sections 25 and 29 of the Digital Security Act set a penalty of 5-10 years in prison in defiance of the principle of "punishment proportionate to crime", which unexpectedly curtailed the "freedom of thought, conscience, and speech" of Article 39 of the Bangladesh Constitution (Government of Bangladesh, 1972, Art. 39). Office of the High Commissioner of Human Rights (OHCHR) technical notes (2022), Digital Security Act, "fails to meet proportionality tests required under international law"

4. *Critical Legal Studies (CLS)*: According to the Critical Legal Studies (CLS) movement (Mark Tushnet, Roberto Unger, Duncan Kennedy), laws are "instruments of political power" that influence the balance of social class and power. The law is never impartial but is written for the benefit of those in power.

CLS in the context of Bangladesh can be seen from the perspective of limited civil society participation in the legislative process. Dissent was suppressed in parliamentary debate, and the administration implemented political objectives through the application of laws. The Special Powers Act, Information and Communication Technology (ICT) Act, Digital Security Act, and Cyber Security Act are common features of power centralisation and accountability erosion. According to the CLS, such legislation establishes "rule by law", not "rule of law", in society.

Research Methodology

The research paper follows the practice of mixed methodology, in which we summarise the main findings arising from the research's central questions and data analysis following this data. Information has been gathered through legal documents, judicial rulings, human rights reports, media analysis and interviews with human rights activists and lawyers.

Findings and Analysis

Historical Evolution and Present Scenario of Repressive Legislation in Bangladesh

After the independence of Bangladesh, many laws have been made to govern the country; although the laws are valid, the work of the laws is illegal, which is constantly violating the human rights

of people. Below are some of the reasons for the creation of some important laws, and we will try to determine the unnecessary implementation of these laws at present.

1. Preventive detention: After independence, the 1972 Constitution of Bangladesh did not have a broad clause on preventive detention, a broad power to impose specific supervisory detention on the executive. But due to the unstable political and economic context, the existing terrorist-revolutionary threat, and the weakness of the administrative system after the independence of the country, the government felt the need to quickly increase administrative powers on the rationale of protecting ‘security’. Article 33 of the Bangladesh Constitution, which states, “Safeguards as to Arrest and Detention” (Government of Bangladesh, 1972, Art. 33), was amended via the Second Amendment, 1973. The reason behind the introduction of this policy was that the state wanted to ensure stability under the pressure of security and economic restructuring of the nation after the period 1971-1975.

The limited legal and theoretical framework demanded the control of political unrest, terrorism, smuggling, and contraband, etc. Preventive detention was thought to be applicable as a tool of the ‘immediate’ state-of-the-art situation at the time. But currently, Preventive detention is being used as a tool of the government, and its abuse has been used to suppress voices of opposition to the state, completely suppress political opponents, and deprive individuals’ freedoms, leading to serious human rights concerns. International organisations (HRW, Amnesty, OHCHR) have noted lumps due to a lack of judicial oversight, indefinite detention, and zero effective appeal mechanisms.

2. Special Powers Act, 1974: Basically, the state makes any law for its people, for them justice, but injustice is created through the law for the misuse of persons in charge. Similarly, the Special Powers Act, 1974 was introduced by the government as a ‘swift and effective’ measure due to the food and supply crisis during 1973-74, political tensions and the demand to protect law and order. The purpose of the Special Powers Act, 1974, is to “prevent certain prejudicial activities and ensure speedy justice.” But at present, a person is detained under the Special Powers Act, 1974, even after the policy of detention by common law; the reason behind this is a lack of accountability does not have to appear before the nearest magistrate within twenty-four hours, and detention can be kept indefinitely, which is used very politically. Therefore, many analysts and human rights organisations have accordingly recommended that the Act’s traditional preventive detention model does not fit current democratic needs and requires necessary limitations to its application.

3. Telecommunication Act, 2001: The rapid expansion of mobile networks, broadband and telecom infrastructure in Bangladesh in the late 2000s necessitated an independent regulatory body (BTRC) as well as regulatory legislation. The Telecommunications Act, 2001 was enacted for cable regulation and sector development. Although the original purpose was service regulation, some sections of the Telecommunications Act contain government surveillance and content blocking

powers, which the government has used to control content online or on mobile channels (temporary blocking, data-on-demand, etc. It affects privacy and freedom of expression, undermining an individual's constitutional rights.

4. Information and Communication Technology 2006: After 2000, internet and mobile-based services continued to grow rapidly. The proliferation of online money transactions, e-mails, websites and blogging led to the need for a legal framework to prevent new types of crime - cybercrime, hacking, online consumer fraud. The ICT Act, 2006 was enacted to tackle digital crime, e-mail fraud, online transaction regulation, etc.

Many sections of the ICT Act penalise the dissemination of “false” or “defamatory” materials online; it is widely enforced against journalists, bloggers and activists, although the Act was repealed by the Digital Security Act, 2018.

5. The Digital Security Act (DSA), 2018, and the Cyber Security Act (CSA), 2023: After the controversy of section 57, “Publication of fake, obscene or defamatory information in electronic form.”, of the Information and Communication Technology Act established the Digital Security Act in 2018, broadening the definition of digital crimes and imposing harsh penalties. The government has said that it needs to tackle online malpractice, group-based hate speech, cyber-fraud, digital personal information leaks, etc. However, as the language of the provision was vague and exaggerated, repression of opinion and prosecution of journalists increased. While the government presented the introduction of the Cyber Security Act, 2023 as a Digital Security Act repealed, independent analysts noted that the CSA retains many of the salient features of the DSA- that is, it is also an expression of opinion-to make governance easier. Several organisations, including Amnesty and OHCHR, have called for the repeal of certain speech crimes and non-bailable clauses of the CSA.

The current situation has seen centuries of lawsuits under the former Digital Security Act/Cyber Security Act, arrests against journalists, increased self-regulation on online platforms, etc. International reports have rolled back the two laws as ‘vague definitions’ and ‘speech crimes’. Although the Digital Security Act, 2018 has been repealed, the provisional activity is implemented in the name of the Cyber Security Act, 2023.

6. The Rapid Action Battalion (RAB): Was formed in 2004, but its foundation legislation is the Armed Police Battalion (Amendment) Act, 2003, which was gazetted on 12 July 2003. The main reasons were that Bangladesh's law and order situation was difficult, and terrorism, drug trafficking, organised crime, and political violence increased. It was proposed that the RAB be formed as a superior, integrated composite Threat Response Unit, as conventional police and anti-crime forces were losing their capacity to deal with crime and terrorism. The Act gives the RAB

powers that can be transferred/delegated from “experienced professional” (police, Army, Navy, Air Force) members.

In the present scenario, the RAB is now a high-profile, “elite force” in Bangladesh, with several operations (terrorism, drugs, disappearance charges) coming under discussion. For example, during 2022-2023, the RAB claimed to have destroyed militant groups in the hilly areas of Chittagong. However, human rights organisations have long accused the RAB of extrajudicial killings, enforced disappearances, and impunity. The international response was quite significant in 2021; the United States imposed sanctions on the RAB and some top officials for Human Rights reasons. Subsequently, the HRW report showed a decline in RAB-related homicides and disappearances. In addition to the laws mentioned, there are many laws and sections of the law that are constantly violating our Constitutional Rights and Human Rights. Which we will try to discuss in the next section.

Human Rights Suppression

Bangladesh's Constitution ranks among the more rights-protective constitutional texts internationally. Part II sets out the Fundamental Principles of State Policy, while Part III enshrines Fundamental Rights, together guaranteeing citizens' freedoms, their right to expression, and the rule of law.

However, even in this human rights-based constitution, human rights are being violated in some policies, such as Preventive Detention Article 33 sub Article (4)(5), again repressive laws, such as Special Powers Act 1974, Cyber Security Act 2023, which is currently Cyber security Ordinance, 2025, Armed Police the battalion (Amendment) Act, 2003, sections 46, 54 of Code of Criminal Procedure, 1898 in fact violate these fundamental rights of the Constitution, where Article 7, “Supremacy of the Constitution”, (Government of Bangladesh, 1972, Art. 26), establishes the Constitution as Bangladesh's supreme law, while Article 26, “Laws inconsistent with fundamental rights to be void”, (Government of Bangladesh, 1972, Art. 26), renders any legislation inconsistent with the Part III fundamental rights void. But these laws are constantly being used by our Law enforcement Authorities one after another, for which there is no clear remedy given by our laws.

Constitutional norms and their violations: Article 31 of the Constitution guarantees every citizen 'the protection of the law' (Government of Bangladesh, 1972, Art. 31). But Section 3 of the Preventive Detention and Special Powers Act weakens this fundamental principle, because here it is possible to give prejudicial detention; again, these principles are violated by Article 27, “Equality before law” (Government of Bangladesh, 1972, Art. 31), which says that if everyone is equal in the eyes of the law, then a person detained in preventive detention cannot get his legal rights as an ordinary criminal. The High Court Division heard *BLAST v. Bangladesh* (2003) has

ruled that the improper application of Section 54 of the Criminal Procedure Code is unconstitutional.

Article 32 of the Bangladesh Constitution states, “Protection of right to life and personal liberty” (Government of Bangladesh, 1972, Art. 32), and Section 42, “Search, Seizure and Arrest Without Warrant”, of the now-former Cyber Security Act 2023, however, granted police the power to arrest without a warrant, a provision difficult to reconcile with fair-trial guarantees. Although the Cyber security Act, 2023 has been amended to create the Cyber Security Ordinance, 2025 where Section 12 of the Act, “National Cyber Security Council”, states that the prime minister or advisor of the state will be the head of the council, and there will also be other council of ministers, which can later be used in political activities that affect the freedom of speech of an individual violating Article 39 of the Constitution that states freedom of thought and expression.

These laws are constantly used by law enforcement authorities, often without judicial oversight, and the Constitution provides no clear remedy for such misuse. Article 35(3), “Protection in respect of trial and punishment”, provides for a speedy, public trial, proportionate punishment, and the right to mount a defence; protection is undercut in practice by prolonged remand and chronically delayed proceedings. Section 25 of the Special Powers Act 1974 permits extrajudicial detention that also infringes Article 36's “freedom of movement” and Article 37's “freedom of assembly”, placing it at odds with international human-rights norms. This is contrary to international human rights standards. After the independence of Bangladesh, the most chaotic period was from 2003; then there was an increase in drugs, smuggling, terrorists, extortion, militancy, etc. Its statutory foundation is the Armed Police Battalion (Amendment) Act 2003, gazetted on 12 July of that year. Although the law was created to enforce order in the state, later these forces became the main protector of the governments, and so far, countless Extra-Judicial Killing. The Armed Police Battalion Amendment Act, 2003 is a complete violation of human rights.

Again, it is seen that through the Telecommunication Act, 2001, the state is storing the secret information of the people. However, the preservation of information is necessary for the management of the state. Still, this preservation is not being controlled by the government in the right way, for which the privacy of the people is at risk, almost time, information is stolen, which is a legal crime. Still, in this situation there is no provision to hold the government responsible for not storing it properly. Behind every special law, there are many crimes, due to which the law is created, but when that crime is reduced and solved, then it is better to change those laws, but the government continuously uses political motives, as a result of which the laws are only rubbed, the name changes but the activities remain the same, illustrated clearly by the Information and Communication Technology Act 2006, which gave way to the Digital Security Act 2018 and was later reconstituted as the Cyber Security Act 2023 and now exists as Cyber Security ordinance, 2025.

International Human Rights Standards: A body of international human-rights instruments underpins the protection of civil liberties across contemporary legal systems. Key instruments include the Universal Declaration of Human Rights, widely regarded as the first codified statement of human rights, alongside the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Cultural Rights, and the Convention Against Torture, which together constitute a coherent normative structure for rights protection. However, in the context of Bangladesh, there is a clear discrepancy between these international standards and domestic laws, especially the Special Powers Act 1974 and the earlier Digital Security Act 2018, and the activities of RAB, which include extrajudicial killings, which can be explained through the concept of "Dark Laws".

Universal Declaration of Human Rights (UDHR), 1948, although the UDHR is not a binding treaty, it is recognised as part of international customary law and is used as a moral-legal yardstick for evaluating the behaviour of states:

- Article 5 prohibits torture and cruel, inhuman, or degrading treatment or punishment.
- Article 9 prohibits arbitrary arrest or detention.
- Article 19 guarantees freedom of opinion and expression.

International Covenant on Civil and Political Rights (ICCPR), 1966:

- Article 14 guarantees a fair and public hearing before an independent, impartial tribunal.
- Article 7 protects against torture and cruel treatment.
- Articles 18 and 19 protect freedom of thought, conscience, religion, and opinion.
- Articles 21 and 22 protect freedom of peaceful assembly and association.

Convention on the Rights of the Child, 1989:

- Article 37(b) protects children from arbitrary detention.

Bangladesh nonetheless continues to draw criticism from OHCHR, Amnesty International, and Human Rights Watch over the persistent gap between these commitments and domestic legislative practice. The judiciary, which should act as a safeguard, remains vulnerable to executive influence, undermining Articles 22 and 94 of the Constitution, which guarantee judicial independence.

Judicial Response and the Crisis of Judicial Independence

Articles 22 and 94 of the Constitution of Bangladesh ensure the independence of the judiciary. However, in practice, political control, administrative influence, and executive interference have called into question the independence of the judiciary. In Bangladesh, the judiciary gets independence through the Masdar Hussain case, but while the judiciary is independent on paper, the law cannot take any action in the past on the Special Powers Act, 1974, which is used by each government for its own needs, and there is a precedent of detention of opposition leaders or any

prominent person, when they speak against the government, which is anti-democratic, but there is also no interference of the judiciary. The response of the courts to various cases of human rights violations remains limited or delayed. Despite the power of judicial review, the inability of the courts to strike down laws that conflict with the constitution raises questions about the independence of the judiciary. Marbury and Madison (1803) claim that judicial review is the process by which the judiciary can nullify a law that conflicts with the Constitution, as per Article 26(1) of the Constitution of Bangladesh. Again, if a law violates Article 26(2) of Fundamental Rights, then the court can independently settle the matter, and can repeal the law, but the judiciary has not taken any steps properly to change the Preventive Detention policy in Bangladesh. Whereas Article 7 of the Constitution of Bangladesh says that the supreme law of the state is the Constitution, but when laws are made contrary to the principles of the Constitution and the judiciary cannot act independently as the space for "Dark Law" to persist widens.

Again, preventive detention is inherently extrajudicial; citizens can be detained in the name of "state security" without charge, investigation, or trial, which is against the constitutional due process. Although the High Court declared detention unconstitutional based on vague intelligence reports in the case of Aruna Sen v. Bangladesh, (1979) there has been no structural reform. The judiciary cannot play an effective role in reviewing these detentions, because the courts rely on "secret reports" prepared by the executive. Human Rights Watch, World Report 2024, states, "...Bangladesh's judiciary often fails to scrutinise preventive detention orders due to executive dominance..." The appointment of the Chief Justice is done through the President, and the financial control of the judiciary is also in the hands of the executive, which results in re-detention in political cases and new detention after bail, which puts these courts under indirect political pressure, which jeopardizes the independence of the judiciary, which is another dark side of our legal system. Again, in the case of BLAST v. Bangladesh (2003), the High Court gave fifteen directions to prevent the misuse of sections 54 and 167 of the Code of Criminal Procedure, 1898, but they were not implemented. Judicial control of administrative actions in Bangladesh faces challenges and prospects for establishing administrative justice, aiming to improve citizens' rights and social order. The court did not usually take suo motu action in the incidents of "crossfire" and "gunfight" conducted in the name of RAB, which indicates a lack of judicial activity. The power of arrest in Section 42 under the previous Cyber Security Act, 2023, violates the constitutional right to "freedom of thought and conscience", provided in Article 39 (Government of Bangladesh, 1972, Art. 39). The Office of the United Nations High Commissioner for Human Rights (OHCHR, 2025) in its reports has stated that Article 14 of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 of the Universal Declaration of Human Rights (UDHR), the judiciary must be an "independent and impartial tribunal". Bangladesh is bound to meet this standard as a party to these treaties, but we see a different form of it. The Human Rights Watch (2024) report states that the authorities of Bangladesh have tightened their repression. Therefore, it is very necessary to take urgent steps to protect the independence of the judiciary to protect this legal crisis and human rights, because the judiciary has the power to question these dark laws.

Key Findings & Summary

1. Preventive Detention and Arbitrary Arrest remain structural problems. Sections of the Special Powers Act, 1974, Section 54 of the Code of Criminal Procedure, and the Cybersecurity Act grant the executive broad discretionary power. The HRW (2024) and OHCHR (2025) reports found evidence of their abuse in Bangladesh.
2. Freedom of expression is severely curtailed. The ambiguity of Sections 21, 25, 28, 31, and 42 of the repealed Digital Security Act, 2018 and Cyber Security Act, 2023, has created a “chilling effect” on journalists, activists, and ordinary citizens.
3. Judicial oversight weakens executive dominance. Interview-based information and BLAST v. Analysis of the Bangladesh (2003) case show that courts often rely on intelligence reports and fail to provide effective remedies in Preventive Detention.
4. Security forces' overcapacity increases human rights risks. Allegations of extrajudicial killings and enforced disappearances have been repeatedly raised using RAB regulations, the ATS Act and anti-terrorism legislation (Annual Report 2023; Amnesty 2024).
5. Deviations from international standards are obvious. According to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, “arbitrary detention” is legal in Bangladesh. This weakens Bangladesh's human rights record in the international arena.

Summary

Studies have found that the structure, language, and application of the “Dark Laws”, all restrict human rights, democracy, and judicial independence. The political situation, state control and the pretext of national security facilitated the abuse of these laws. As a result, legal reform is now essential to ensure the protection of human rights and the rule of law.

Limitations

Like any study, this one has gone through some structural and procedural limitations. These limitations have partially affected the scope of research and depth of analysis, although the researcher has tried to maintain maximum caution and methodological accuracy.

Limitations of access to data

In the case of many repressive laws, especially the Special Powers Act 1974, Section 54 of the Code of Criminal Procedure, 1898, the Cyber Security Act 2023, and the activities of the RAB, information is not published transparently at the government level. As a result, reliable data collection is hampered. Statistics on Extrajudicial killings, enforced disappearances or Preventive Detention often rely on reports from human rights organisations, which do not match government data.

Limitations of Interview-Based Information

While human rights activists, journalists and lawyers were interviewed, many were unable to speak openly due to security concerns and the legal-political environment. This leaves some of the real experience behind. In addition, the relatively small sample size of interviews meant that greater representation could not be achieved.

Limited availability of policy and judicial documents

Some important judicial rulings, particularly the Appellate Division's detailed observations on Preventive Detention, are not readily available online. As a result, some analyses have had to be based on partial documentation. Some sections of the Cyber Security Ordinance 2025 are not yet fully available online, limiting analysis.

Limitations of international comparative analysis

While the study considered the comparative legal frameworks of India, the United Kingdom and Pakistan, broader global comparisons (e.g. European Union, Americas, Africa) could not be included due to time and scope constraints. This would have enriched the international perspective of research.

Time and resource constraints

Field research, extensive interviewing, and region-based data-gathering have not been possible due to time and economic constraints in conducting research. In addition, the greater reliance on data collection on digital platforms is a secondary limitation of research.

Summary

Overall, lack of access to information, lack of transparency in government documents, security concerns for interviewees, and limited international comparisons have somewhat limited these studies. Nevertheless, it has been possible to provide clear and research-based conclusions about human rights violations, repressive laws, and the judiciary crisis.

Reforms and Policy Recommendations

Considering the Repressive Laws, Preventive Detention, the authority structure of RAB, and the impact of Dark Law analysed in this study, democratic modernisation of the legal system of Bangladesh is necessary. Below are some acceptable proposals at the policy-making level:

1. Re-evaluation and repeal/amendment of repressive laws. Section 3 of the Special Powers Act, 1974, needs to be repealed, as this section is a major part of human rights violations.
2. Strengthen judicial independence over preventive detention. Rigorous, genuinely independent judicial oversight is necessary to prevent the use of detention as a tool of political retaliation.
3. Give full effect to Article 32. These reforms are necessary to present a person detained on suspicion of financial crimes to the court within 24 hours and ensure contact with the detainee's lawyer and family. This will also further strengthen the independence of the judiciary.
4. Reinforce separation of powers. Allowing each organ of the state to exercise its own powers, such as preventing the Executive from interfering in the work of the Judiciary.
5. Repeal or substantially revise the Armed Police Battalion (Amendment) Act 2003, and enact a tolerant law, as the RAB has got special powers through the relevant rules; there is a “Dark Law-like operational grey zone”. Therefore, RAB activities include Bodycam, Operation Log, which violate human rights.
5. Show foresight in lawmaking and create transparency in lawmaking to reduce Dark Laws: Dark Laws refer to all laws that are opaque, vague and used for punitive purposes and which are used by different governments to maintain their needs or power.
6. Human rights-friendly police system. Use of technology-based methods to suppress crime; make human rights training mandatory for police and law enforcement personnel.
7. Fully implement existing international commitments. It is necessary to reform national laws by implementing these international obligations signed by Bangladesh: ICCPR, CAT, UDHR, Bangkok Rules, Beijing Principles.
8. Strengthening Democratic Participation and Civil Society. Including the views of civil society, human rights organisations, and citizens in law reform will strengthen social resistance against Dark Law.

Conclusion

A state is governed by law, and the state is governed by the government and its council of ministers. In Bangladesh, laws are made in the National Parliament and are promulgated by Members of Parliament. Laws are made in a state to ensure the rights of its people, but when a government uses those laws or sections of the law to protect its own power, it is known as “Dark Law”.

This study has revealed that many security-oriented laws in Bangladesh, such as the Preventive Detention Policy, the Special Powers Act 1974, the former Digital Security Act and its cyber-security successors, and the operational framework of the RAB have over time created an authoritarian legal environment that challenges the fundamental foundations of human rights, judicial independence, and constitutional justice. The purpose of these laws was to protect state stability, but their misuse has created a double reality between the rule of law and citizen security. Fundamental rights, international human rights, etc. are being violated. In particular, the concepts of Preventive Detention and Dark Law show that law sometimes becomes an instrument of state power, where the judiciary faces obstacles in exercising effective independence outside the control of the executive.

The study proves that in a modern democratic state, ensuring security and protecting fundamental rights are two sides of the same coin. Therefore, accountability, transparency of law enforcement agencies, effective independence of the judiciary and adherence to international human rights standards are prerequisites for the formation of a humane, just and responsible state structure. Considering this study, it can be said that it is possible to ensure the real rule of law only through timely reforms in the laws and policies of Bangladesh and the restoration of the balance of power.

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