

The Rights to Marry, Property and Be Free from Torture: A Study on the Elderly of Rajshahi District in Bangladesh

Md. Zahid Hossain¹, A KM Mahmudul Haque², S M Akram Ullah³

¹⁻³Department of Political Science, University of Rajshahi, Rajshahi-6205, Bangladesh

*Corresponding Author E-mail: zahidbd462@gmail.com

Abstract

Everybody deserves the right to marry, the right to property, and the right to be free from torture as fundamental rights. These rights are preserved by the state and have been incorporated in the constitution of the People's Republic of Bangladesh. These are also recognized by the Universal Declaration of Human Rights (UDHR) as fundamental rights. This study is an endeavor to depict a clear picture of human rights violation of the elderly people of a northern district of Bangladesh in the aspect of the right to marry, the right to property, and the right to be free from torture. These rights are very important for a human being and it is the responsibility of the state to protect these rights according to the highest law of Bangladesh. But the study found that these rights are often violated in several ways in the study area. Lack of ethical views, corruption, and weakness of law enforcement are the main hindrances responsible for this case. This research is based on both primary and secondary data. It recommends some suggestions to out away these impediments. Raising proper familial education with morals and values is very important in this sphere. The government has to be more active in the ground of law enforcement and social movement should be built massively against corruption.

Keywords: Human rights, elderly people, Universal Declaration of Human Rights, old home, United Nations

Abstrak

Setiap orang berhak atas hak untuk menikah, hak atas properti, dan hak untuk bebas dari penyiksaan sebagai hak dasar. Hak-hak ini dilindungi oleh negara dan telah dimasukkan dalam konstitusi Republik Rakyat Bangladesh. Ini juga diakui oleh Deklarasi Universal Hak Asasi Manusia (UDHR) sebagai hak dasar. Penelitian ini berusaha untuk menggambarkan gambaran yang jelas tentang pelanggaran hak asasi manusia lanjut usia di distrik utara Bangladesh dalam aspek hak untuk menikah, hak atas properti, dan hak untuk bebas dari penyiksaan. Hak-hak ini sangat penting bagi manusia dan merupakan tanggung jawab negara untuk melindungi hak-hak ini menurut hukum tertinggi Bangladesh. Namun studi menemukan bahwa hak-hak tersebut sering dilanggar dalam beberapa hal di wilayah studi. Kurangnya pandangan etis, korupsi, dan lemahnya penegakan hukum menjadi kendala utama dalam kasus ini. Penelitian ini didasarkan pada data primer dan sekunder. Ini merekomendasikan beberapa saran untuk menghilangkan hambatan ini. Membesarkan pendidikan keluarga yang tepat dengan moral dan nilai-nilai sangat penting dalam bidang ini. Pemerintah harus lebih aktif di lapangan penegakan hukum dan gerakan sosial harus dibangun secara masif melawan korupsi.

Kata kunci: Hak Asasi Manusia, orang tua, Deklarasi Universal Hak Asasi Manusia, rumah tua, Perserikatan Bangsa-Bangsa

INTRODUCTION

Everybody is a member of human society and a citizen of a state. As a part of a human being, he/she has some common rights in the society which are essential to amplify his or her personality and better living. These rights are mostly known as human rights. Human rights are those legal and moral rights that can be claimed by any person irrespective of their race, age, color, sex, religion, or political opinion. In 1948,

* Copyright (c) 2022 **Md. Zahid Hossain et.al**

This work is licensed under a [Creative Commons Attribution-ShareAlike 4.0 International License](https://creativecommons.org/licenses/by-sa/4.0/)

Received: April 6, 2021; In Revised : January 25, 2022; Accepted : February 15, 2022

the United Nations (UN) proclaimed 30 articles under the historical document- Universal Declaration of Human Rights (UDHR) which are applicable as human rights all over the world.

There are five stages of a man in the lifespan which are commonly known as infancy, childhood, puberty, adulthood, and old age (Barikdar, Ahmed, and Lasker, 2016). It is true that the activities, relationships to family, attitudes towards life, physical fitness, and biological capacities of a person are all confined by the level of age (Alam, 2015). The United Nations (UN) selects the age of 60 and above as the elderly. The estimated people of that age were 962 million in 2017 all over the world which was 13 percent of the total population and since then it has been growing up at the rate of 03 percent each year. There are many mentionable efforts for the elderly which are taken by several reputed international organizations like the UN. The human rights of the elderly are recognized in 1982 particularly under the United Nations Assembly on Ageing (UNAA) through the resolution no: 37/51 upholding the Vienna International Plan of Action on Ageing. UN principles for Aged people were adopted in 1991 through resolution no: 46/91. Several countries have taken necessary steps for the human rights of aged people after these.

Bangladesh is a developing country which is trying to improve its all sectors constantly. There is no universal definition for aged people by their definite age. But 60 years old are commonly considered as aged citizens. Mohammad Abdul Hamid, the President of Bangladesh has declared the age of 60 as the elderly to attuning United Nations (Acharjee, 2017). The President also declared the elderly people as the 'Senior Citizens' of the state and urged about their social security, dignity, and all other facilities (Hamid, 2014). The government of Bangladesh has already passed an act for social security and better living of the senior citizens which is named as "*Parents Care Act, 2013*".

However, there are several provisions and efforts to secure the rights of elderly people nationally and internationally. But a mentionable number of elderly people are victims of violation of human rights in several ways in Rajshahi which is one of the northern districts of Bangladesh. The researchers experienced a number of incidents in the field survey regarding human rights violations. Violation of the right to marry, right to property, and the right to be free from torture are of those.

RESEARCH METHOD

The research is empirical because the aim of this research is to empirically investigate the present situation of the social security of old people regarding their human rights. It is mainly a qualitative research. Required data were collected from both primary and secondary sources and analyzed accordingly. Primary sources of data for this study include study field, study respondents, concerned authorities and so on. Various research reports and articles, relevant books, official statistics, government policies, journals, newspaper reports, unpublished study documents, thesis/dissertations, internet and the like have been used as the secondary sources of data. Primary data have been collected through face to face interview by using close ended questionnaire from the respondents above the age of 60 who were considered as the victims of human right violation of the senior citizen. The total number of respondents for this study was kept 60 who were categorized into three categories, such as general respondents (25), old home respondents (25), and responsible officials and key informants (10). Snowball sampling technique was used to recruit samples since the total population was undefined and difficult to locate. Samples were recruited in chain referral basis. Since qualitative response has been used throughout the study to draw the conclusion, 60 samples from Rajshahi District is assumed close to be representative.

This study has been conducted at the district level of Bangladesh. There are 64 districts in Bangladesh. Among them, Rajshahi has been selected purposely for the study. All the districts of

Bangladesh are now functioning under the same act. All types of basic service are available in all districts. Each of the districts has a rural area and an urban area. Rajshahi is such a district that represents all districts of our country. Moreover, it is a divisional city too. It has a city corporation, 15 municipalities, and 10 Upazilas (sub-district). All classes of people are available here. This research on this district thus may be considered as the representative of all areas of Bangladesh.

RESULT AND DISCUSSION

Everyone is entitled to enjoy the right to life, liberty, and security (United Nations, 1948: Article 3). But it cannot be thought about life, liberty, and security without the protection of the right to marry, the right property, and the right to be free from torture. These rights are essential to exist a complete life of a human being and are recognized by national and international law. Universal Declaration of Human Rights (UDHR) is the highest document for human rights all over the world. It declares the right to marry, right to property, and the right to be free from torture with the articles 16 (1, 2, 3), 17 (1, 2), and 3 respectively (United Nations, 1948). These rights are reserved by the constitution of Bangladesh as fundamental rights too (GoB, 2011: Article 32, 35(5), 42 (1, 2)). But the study found that a number of elderly people cannot enjoy these rights properly. They are the victims of physical or mental torture, deprived of their properties, and victim of physical torture for committing second marriage. These are described elaborately below.

Violation of the Right to Marry

Marriage is a process of legally organized union of two adult persons (mainly between a boy and a girl) for conjugal life and for producing children. In other words, it is a culturally and socially recognized union between two opposite gender persons that establishes duties and responsibilities between the couple and also among their children (Haviland W.A. et al. 2011). The nature of marriage varies from place to place. Sometimes it can be held between two same-gender persons. But mostly it deals with the opposite gender. Sometimes it becomes a medium for the reproductive process, sometimes for controlling the sexual life, and sometimes for the fullness of an emotional relationship. According to Encyclopedia Britannica,

“Marriage, a legally and socially sanctioned union, usually between a man and a woman, that is regulated by laws, rules, customs, beliefs, and attitudes that prescribe the rights and duties of the partners and accords status to their offspring (Encyclopedia Britannica, n. d.)”.

However, marriage is a necessary process for conjugal life. It is an essential element for a properly controlled family which is compulsory for a social life. Every one of the adult ages can marry another person under his/her free consent. This is a universal right and this is recognized by UDHR, the highest guarantee for human rights. UDHR (article 16) declares that, a) every full aged man and woman can marry each other; b) there are no limitations irrespective of race, color, religion, etc; c) they can find a family after marriage; d) they hold equal rights to marry and to dissolve; e) marriage shall be executed under the full consent of the spouses; f) family is a fundamental social institution and it deserves the security imposed by the state and society.

Moreover, a special convention of the UN General Assembly has been conducted to show a clear picture of the minimum age, importance of consent, and other criteria of marriage. None shall be deprived of the right due to race, gender, or age limitation. Besides, marriage is a part of personal liberty. The right to personal liberty is reserved by the constitution (GoB, 2011: Article 32). Thus, in these conditions, everyone has the right to marry. No one can interfere with this right.

But a person among the respondents had to face a lot of sufferings for committing to marry. He married twice after the death of his first wife because he felt very lonely. So he married the second time. But his sons from the first wife did not support it and beat him physically and in a stage, he was bound to execute a deed of his all properties to the name of his sons. Then they beat off him. Now he lives in an old home and he has been suffering from several diseases after the great shock. He says,

“I married the second time following a legal process maintaining all rules and regulations provided by the state to remove my loneliness. But that was my great fault in my life according to my children. I had enough properties such as land, market, residential area, etc. But now I am impoverished. This old home is my only shelter now. I live here with a lot of diseases but no one of my sons comes here to meet with me once (Hossain, 2020)”.

Violation of the Right to own Property

Property is an important element for a standard of living. It indicates those elements which hold utility, transferability, and rational financial values. Sometimes it may be material and sometimes may be non-material. But the material properties have been taken under consideration in this research. It is essential for ensuring basic human needs and for a standard of living. Every function related to the human being is dealt with money. A man cannot get food, clothes, and necessary medicines or adequate housing facilities without money. It is used in the exchange of property. So, the property is a crying need for a human being from its birth to death.

Thus, the right to property is a very important instrument of human rights. Everyone has the right to property in single or in association with others and no one shall be deprived of this right arbitrarily (Universal Declaration of Human Rights, 1948: Article 17 (1, 2). UDHR (article 17) is a legal guarantee for this right. It is also recognized by European Commission, Equality and Human Rights Commission, African Charter on Human and People’s Rights, American Declaration of the Rights and Duties of Man and American Convention on Human Rights, etc. According to the European Convention on Human Rights,

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law (United Nations, 1950: Article 1)”.

Besides, according to the constitution of Bangladesh, every citizen has the right to acquire, hold, transfer, or otherwise dispose of the property. No property of a citizen can be arbitrarily acquired, nationalized, or requisitioned without the rule of law. The concerned citizen shall get due compensation in such a case. He shall not be deprived of this compensation imposed by law (GoB, 2011: Article 42 (1, 2). But in practice, some of the respondents of this research are deprived of this human right. Some are deprived of their properties by their heirs and some are deprived of compensation in the case of acquisition etc.

Among the general respondents, only 8% say that they have their own properties under their ownership till now. 24% state that they had to sell their limited properties in crisis moments and 28% reply that they do not have any property by birth. Besides, 40% claim that they are victims of the violation of the right to properties in several ways, such as arbitrary acquisition without compensation, hijacking or robbery, and coercion to leave house directly or indirectly. Thus, it can be said that 40% of general respondents are deprived of the property right (see Table 1). One of them from Nawhata, outskirts of Rajshahi city, is deprived of his property by the arbitrary acquisition of his land for establishing the Shah

Makhdum Airport, Rajshahi. Now he is a rickshaw puller once who was a member of a higher middle-class family. He blames saying the following speech:

Table 1. State of the Right to Properties

Variables		General respondents		Old home respondents	
		Frequency	Percentage	Frequency	Percentage
Still holder of properties' ownership	Yes	02	08%	00	0%
	No	23	92%	25	100%
Once had but still no properties	Yes	06	24%	08	32%
	No	19	76%	17	68%
No properties by birth	Yes	07	28%	17	68%
	No	18	72%	08	32%
Victims of violation of the right to own properties	Yes	10	40%	08	32%
	No	15	60%	17	68%

Source: Field Survey, 2020

"I was a member of a higher middle-class agricultural family. My father had nearly 08 acres of the crop field. The government acquired more than 04 acres of the total land of my father's for making Shah Makhdum Airport. On the part of the government, some responsible officers committed to pay our proper compensation but we failed to get it properly. I went to the concerned office again and again to get my due amount. But they gave me a very small amount avoiding the government directives and following an illegal path. 5 years later we had to leave the hope of getting the rest amount. Then I had only 115 points of land. Among these, I had to sell about 45 points of land to manage the marriages of my three daughters. And the rest part of my land is now occupied by my only son. Before coming to the city, my son and daughter-in-law did not tolerate my wife. So, I decided to leave my house and take shelter in a rent room in the city area. Now I pull a rent rickshaw and earn our livelihood. It is very difficult to pull a rickshaw on my part in the degenerating age. But I am bound to do it for me and my wife's livelihood (Rahman, 2020)".

Almost all of the old home respondents acknowledge that they had no properties under their ownerships. 32% of the respondents claim that they became the victim of deprivation of the right to property in several ways, such as the coercion of children or daughters-in-law. In such a situation, they had to leave their houses and take shelter at the old home. Some of the respondents had small properties but they had to sell their properties in their crisis moments. One of the respondents who was the victim of the deprivation of the right to property, told a very serious heart touching story. He said,

"After my second marriage, my sons were beating me every day before coming to the old home. The process of beating was being continued day in day out. It was out of my mind because both who were beating me were my loving sons. They heinously hurt me and that was completely inhuman. It was intolerable on my part. They had done it only for the property. They inhumanly applied coercive force on me to take all of my properties in their names and continued brutal torture to make me bound to leave my house. At last, I left my house forever and took shelter at this old home (Hossain, 2020)".

Violation of the Right to be Free from Torture

Torture means all kinds of the act which are the reasons of physical or mental pain. Torture is an inhuman act. It persecutes a man mentally or physically. Torture is the infliction of forceful mental or physical pain or suffering for an intention. The purposes of torture can be several types such as eliciting information, coercing a confession, or imposing punishment (Rodley N. S., 1998). In other words, torture means the systematic and deliberate infliction of severe pain by a person on another or by a third person

(Amnesty International, 1973). In a word, torture is a forceful act of someone to another which gives pain to another physically or mentally.

According to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the United Nations:

“Torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions (United Nations, 1984)”.

However right to be free from torture is one of the most important human rights. It is recognized by UDHR. According to the Convention on the Rights of Persons with Disabilities, everyone shall be free from torture or cruel, inhuman or degrading treatment or punishment (United Nations, 2007). Finally, no one shall be subjected to torture or cruel, degrading or inhuman treatment or punishment according to UDHR (United Nations, 1948). Besides, this right is recognized by the Constitution of the People’s Republic of Bangladesh. According to article 35 (5) of the constitution, “No person shall be subjected to torture or cruel, inhuman, or degrading punishment or treatment” (The Constitution of the People’s Republic of Bangladesh, 2011: Article 35 (5)).

But in practice, a large number of respondents are deprived of the right to be free from torture. Sometimes they are tortured by their families, sometimes by government bodies, sometimes by neighbors and others. It is obvious that about 24% and 28% of respondents were tortured physically by their families, particularly by their daughters-in-law among the general and old home respondents. 64% of general respondents and 84% of old home respondents were the victims of mental torture by their families, particularly by their daughters-in-law or children (see Chart 1). A 60-year-old mother was being tortured at every turn by her daughter-in-law. She was crying while describing her pathetic story. Now she lives at the old home. She expresses with teary-eyed,

“Then the hard time of my life came up. I did hard work in several places such as poultry farm, paddy field, rice meal, etc to earn the livelihood of my child. I schooled him properly despite my financial disability. Then I made a shop in a marketplace and gift him. Our family watched the face of happiness then. At that moment, my child married a girl and that was the turning point of my life. My daughter-in-law did not tolerate me. She was not agreed to provide my food with the earning of my son. I was beaten by her several times. The black and blue spots in several places in my body are witnessing the torture of my daughter-in-law. Then I had to step out of my home and went to the old home silently. Despite all misbehavior of my family members, I want their happiness always (Begum, 2020).”

Chart 1 indicates that, some respondents were the victims of physical and mental torture by the others, such as, by the hijackers, brokers, neighbors, shopkeepers, and people from gathering places. One of them lost his auto-rickshaw to the hijacker after being stabbed by them. Besides, most of the disabled respondents claim the same matter that they were a victim of mental torture in several places. A paralyzed old person claimed,

The people call me lame. They don't like to use my name. It gives me severe pain. I do not get any chance to ride on any public vehicle. Sometimes, the kids throw stones at me. All of these activities are very painful for me. I wish to die now and then. But, suicide is considered a sin in our society (Mondol, 2020).

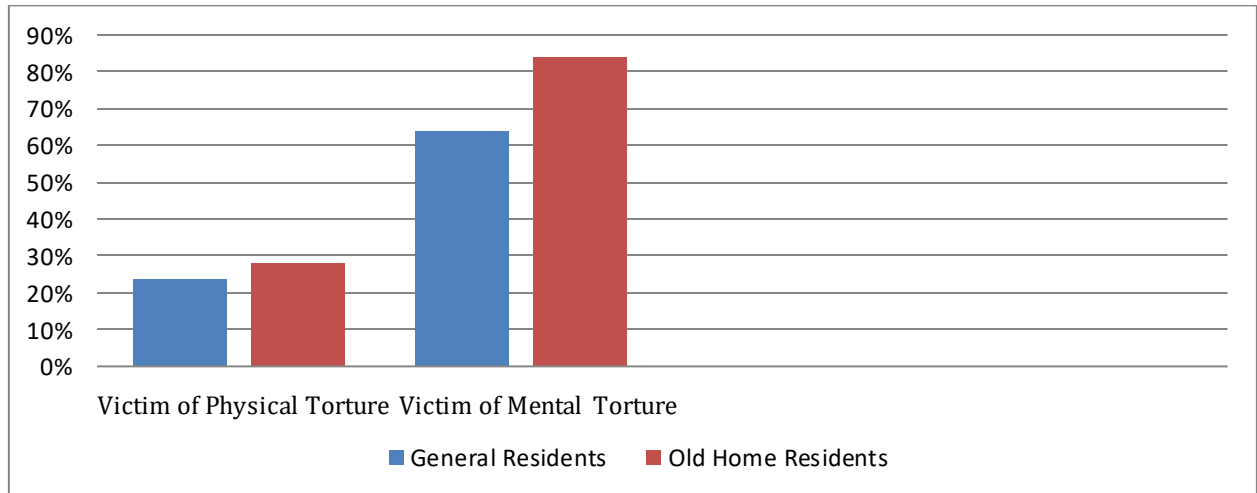


Chart 1: State of the Torture by Family

Source: Field Survey, 2020

CONCLUSION

Elderly people are the essential part of each society. It is a compulsory stage of the total lifespan for everybody. Everybody has to pass through this stage of life. But in this stage, elderly people are deprived of their rights in many ways. It is a very disappointing picture of our society. It is a crying need to ensure the proper rights of this vulnerable group. Some recommendations can be put forward which may be helpful for this. Emphasis should be given to family education with values and ethics. A child needs to be taught not only to have a successful career but also to be a true human being. We have to make arrangements for the proper socialization of every child. They need to be taught not only to grow up but also to be ideal children. Parents need to teach them a sense of responsibility. More effective steps need to be taken to eradicate the bureaucratic complexity. We have to start a campaign through a social movement against corruption to gain the principal objective of this research. At the same time, every citizen should be aware of his rights. In the case of corruption or injustice, the opportunity to seek legal recourse should be made easier. If someone is physically tortured, the concerned authorities should take strict steps in enforcing the law. The cry of the oppressed must be given priority before the oppressor. Above all, if we see others being physically or mentally abused, we have to build social resistance. And all its heinous deeds should be looked upon with hatred. Finally, everybody has to bear in mind that the elderly is an essential chapter in everybody's lifespan. If we do not take care of our parents in their final stage of life, our children will repay us the same thing. Moreover, these aged parents are the main makers of our present establishment. They have protected us from all kinds of adversities. So, it is the main duty to take care of them properly.

REFERENCES

- Acharjee, Deepak (2017). "Govt. Dragging Feet on 1.50cr Senior Citizens' Benefits." The Daily Independent, September 30, 2017. <http://www.theindependentbd.com/post/116533> (Retrieved on 29 February 2020).
- Alam S. (2015). *Elderly People in Bangladesh: Vulnerabilities, Laws and Policies*. https://www.academia.edu/22978303/Elderly_people_in_Bangladesh_Vulnerabilities_laws_and_policies_1_st_Draft_Report (Retrieved on 16 September 2019).
- Amnesty International, (1973). *Torture in the Eighties*. USA Edition. Amnesty International Publication. Quoted in: Wikipedia. https://en.wikipedia.org/wiki/Torture#cite_note-15 (Retrieved on 29 February 2020).
- Barikdar, A., Ahmed T., and Lasker S. P. (2016). "The Situation of the Elderly in Bangladesh." *Bangladesh Journal of Bioethics*, Vol. 7(1), p. 27. https://www.researchgate.net/publication/306137257_The_Situation_of_the_Elderly_in_Bangladesh (Retrieved on 16 September 2019).
- Begum, Ambia, (2020). "Have you ever been physically or emotionally abused?" Interview by Md Zahid Hossain on 04 January 2020.
- Encyclopedia Britannica, (n. d.). What is Marriage? <https://www.britannica.com/topic/marriage> (Retrieved on 29 February 2020).
- GoB, (2011). The Constitution of the People's Republic of Bangladesh. Article 32, 35(5), 42 (1, 2). <http://bdlaws.minlaw.gov.bd/act-367/section-24583.html> (Retrieved on 29 February 2020).
- Hamid, Abdul, (2014). "President declares elderly people as 'senior citizens.'" The Daily Star, November 27, 2014. <https://www.thedailystar.net/president-declares-elderly-people-as-senior-citizens-52358> (Retrieved on 16 September 2019).
- Haviland W. A. et al. (2011). *Cultural Anthropology: The Human Challenge (13th ed.)*. Cengage Learning. ISBN 978-0-495-81178-7. "A nonethnocentric definition of marriage is a culturally sanctioned union between two or more people that establishes certain rights and obligations between the people, between them and their children, and between them and their in-laws. Quoted in: Wikipedia. https://en.wikipedia.org/wiki/Marriage#cite_note-1 (Retrieved on 29 February 2020)
- Hossain, Makbul, (2020). "Have you ever been tortured for a second marriage?" Interview by Md Zahid Hossain on 04 January 2020.
- Hossain, Makbul, (2020). "Why are you staying at the old age home instead of at home?" Interview by A K M Mahmudul Haque on 04 January 2020.
- Mondol Sultan, (2020). "Have you ever been emotionally abused?" Interview by Md Zahid Hossain on 01 January 2020.
- Rahman, Mazibur, (2020). "Have you ever been deprived of property right?" Interview by Md Zahid Hossain on 04 January 2020.
- Rodley N. S. (1998). *Encyclopedia Britannica*. <https://www.britannica.com/topic/torture> (Retrieved on 29 February 2020)
- United Nations, (1948). Universal Declaration of Human Rights. <https://www.un.org/en/universal-declaration-human-rights/> (Retrieved on 05 February 2020).
- United Nations, (1950). European Convention on Human Rights (1950). Article 1 of Protocol No. 1. <https://rm.coe.int/168007ff55> (Retrieved on 29 February 2020).
- United Nations (1964): Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. https://www.ohchr.org/en/professionalinterest/pages/minimumageform_marriage.aspx (Retrieved on 29 February 2020).

United Nations, (1984). *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Article 1. <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx> (Retrieved on 29 February 2020).

United Nations, (2007). Department of Economic and Social Affairs, *Convention on the Rights of Persons with Disabilities*, Article 15 (1). <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-15-freedom-from-torture-or-cruel-inhuman-or-degrading-treatment-or-punishment.html> (Retrieved on 29 February 2020).