



Justifiability of the second generation human rights: Problems and prospects including Bangladesh perspective

Shilpi Rani Sen

Lecturer, Department of Laws, Atish Dipankar University of Science and Technology, Uttara, Dhaka, Bangladesh

Abstract

The purpose of this article is to recognize the meaning, nature, justifiability and enforceability of Second Generation Human Rights i.e. Economic, Social & Cultural rights. The state responsibility to implement Economic, Social & Cultural Rights has become critically important for effective claims on society. The proscriptive aspect of economic and social rights postulated in different international instruments and the institutional and supervisory framework set up under those instruments are discussed here in details. The article also explores various aspects of Economic, Social & Cultural rights such as the international instruments dealing with Economic, Social & Cultural rights; the problems and prospects associated with the implementation of Economic, Social & Cultural rights; the persuasive aspect of Economic, Social & Cultural rights how the Economic, Social & Cultural rights can be encouraged and finally relations between Economic, Social & Cultural rights and Periodic Development Goals.

Keywords: Second generation Human Rights, Economic, Social and Cultural rights, Justifiability, Problem, Prospects, ICESCR, The constitution of Bangladesh

Introduction

As a Human being every person has some rights in order to lead their standard life of living. These rights are categorized in three ways,

1. First Generation Rights of Human Rights.
2. Second Generation Rights of Human Rights.
3. Third Generation Rights of Human Rights.

Second Generation Rights of Human Rights means the Economic, Social and cultural Rights of Human being. "All Human Rights are Universal, indivisible and inter dependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis." So, without ensuring Economic, Social and cultural rights other Rights may be nominal in character. Since the adoption of the Universal Declaration of Human Rights in 1948, many treaties, agreement for the protection of human rights have been concluded through the auspices of the United Nations and several regional system of Human Rights law have been established. These declaration, treaties, agreements and regional system of Human Rights play vital role in order to protect the Economic social and cultural rights of Human being.

Concept of Human Rights

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.

International human rights law lays down the obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights

and fundamental freedoms of individuals or groups.

Some famous quotes are given below in relation to Human Rights.

According to James Baldwin "Words like freedom, Justice, democracy are not common concepts, on the contrary, they are rare. People are not born knowing what these are. It takes enormous and, above all, individual effort to arrive at the respect for other people that these and words imply."

According to Oscar wilde, "In the old times men carried out their rights for themselves as they lived, but now a days baby seems born with a social Manifesto in its mouth much bigger than itself."

Declaration, Covenant, Treaties, Agreements, connected with The Second Generation Human Rights. These are given as follows

1. The Universal Declaration of Human Rights.
2. The International Covenant on Economic, Social and Cultural Rights.
3. European Human Rights.
4. The Inter American System for the protection of Human Rights
5. African Charter on Human and Peoples Rights.
6. Various Group Rights discuss about Economic, social & Cultural Rights.

Now discuss these elements briefly in the bellow

1. The Universal Declaration of Human Rights

The United Nations charter contains a number of references to Human Rights though no elaboration is provided to the meaning of the concept within the charter itself. Efforts by certain states, notably panama to hare a "Bill of Rights included within the United Nations charter proved unsuccessful. After the coming into operation of the United Nations charter, there was a move to spell out the meaning

of the concept of Human Rights in greater detail.

The Universal Declaration of Human Rights was adopted on 10 December 1948. The UDHR was adopted by Resolution 217 (III) which consisted of five parts.

The UDHR contained both civil and political rights as well as economic, social and cultural rights.

The Declaration contains a number of social, economic and cultural rights include the rights to social security (Art 22), Right to work (Art 23) Right to rest and leisure (Art 24), Right to a decent standard of living (Art 25), Right to education (Art 26), Right to cultural life (Art 27), Right to Social and international order suitable for the realization of Human Rights (Art 28).

2. The International Covenant on Economic, Social and Cultural Rights

After the adoption of the Universal Declaration of Human Rights the next stage was to establish legally binding principles on International Human Right. In its Resolution 2178 and E (IID of 10 December 1948) the General Assembly through the ECOSOC, requested the Human Right commission to continue to give priority to the drafting of the International covenant and measures of implementation. Originally it had been intended to draft a single covenant covering all the fundamental rights. However with the onset of the cold war and the rise of new nation states it became possible to incorporate all the Rights within is document. The Western states put emphasis on civil and political rights whereas the socialist and newly independent states were on economic, social and cultural rights and the right to self-determination. There were divisions and difficulties around having civil and political rights alongside economic, social and cultural rights within the text of a single treaty.

A critical issue related to the implementation mechanism while it was thought possible to set up a scheme to implement civil and political rights the same was not thought to be feasible for social and economic rights.

It was ultimately decided to have two different treaties, one covering civil and political rights and the other economic, social and cultural rights.

The ICESCR was approved by the third committee of the General Assembly in December 1966; each covenant required 35 ratifications and both came into force in 1976.

The International covenant on Economic Social and Cultural Rights came into force on 3 January 1976. Attempts to establish a complaints procedure based on an optional protocol have thus far been unsuccessful. The ICESCR is divided into five parts.

- a. Deals with right to self-determination (Art- 1).
- b. Provides interalia for the general nature of states parties' obligation (Art: 2-5).
- c. Specific Substantive Rights (Art: 6-15)
- d. Implementation
- e. General provisions of a legal nature.

The covenant is supplied with an implementation mechanism. The body in charge of implementation is called the committee on the International covenant on Economic' social and cultural rights. In addition to the work of the committee, the Jurisprudence on the subject has been enhanced by a number of sources including the Limburg principles on the implementation of the International covenant on Economic, social and cultural Rights and the

Maastricht guidelines on violations of Economic, Social and cultural Rights. The covenant provides some rights these are brief 11 discussed in the following:

Self-determination

Article 1 of the covenant deals with the important right of self-determination. Rights to self-determination includes economic self-determination has been clearly established as a right in international law and forms a part of the norms of 'jus cogens.'

Article 1(3) goes on to assert the point that, Developing countries with due regard to human rights their national economy may determine to what extent they would guarantee the economic rights recognized in the present covenant to non-nationals.

Developed states have insisted that any expropriation of foreign property needs to comply with minimum international standards and be prompt, adequate and effective.

Article 25 of ICESCR alongside the above mentioned provisions of Article I was deployed by the developing world to advance claims of economic sovereignty and self-determination. Nothing in the ICESCR shall be interpreted to impair the inherent rights of all people to enjoy and utilize fully and free all their natural earth and resources.

The Right to work and Rights of the workers

Article 6 provides for the right to work which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts and also states that the state will take appropriate steps to safeguard this right.

According to Article 6(2) steps are to be taken by state parties to the present covenant to achieve the full realization of this right. Article 7 (a) expands on the subject of working conditions and remuneration and provides for recognition of the right to:-

Enjoyment of just and favorable conditions of work which ensure in particular.

Remuneration which provides all workers as a minimum with

1. Fair wages and equal remuneration for work of equal value without distinction of any kind in particular Women being guaranteed conditions of work no inferior to those enjoyed by men with equal pay for equal work.
2. A decent living for themselves and their families in accordance with the provisions of the present covenant. The Committee of ICESCR has advocated a system of minimum wages conforming largely to the ILO Minimum wage fixing convention of 1970.

Article 7 (a) also concerned safe and healthy conditions of work, equal opportunities in employment including merit based opportunities for promotion, rest leisure and reasonable limitation of hours work along with paid periodic holidays.

Article 8 provides the right to form and join trade unions to everyone no restrictions should be placed on the exercise of this right other than those that are necessary for national security, public order or for protecting the right of others.

Social Security and Family Rights

According to Article 9, the state parties recognize the right

of everyone to security which includes social insurance.

Article 10 deals with the important subject of promoting and protecting the family. In encouraging state parties to provide all possible assistance to families, the Art treats family as, the natural and fundamental group unit of society, a terminology applied in other international and regional human rights treaties.

Article 10(2) states that special protection should be accorded to mothers during a reasonable period before and after child birth. During such period working mother should be given paid leave or leave with in adequate social security benefits.

According to Article 10(3) special measures of protection and assistance need to be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions.

Children and young persons are to be protected from economic and social exploitation. Their employment in work harmful to their morals or health, dangerous to life or likely to hamper their normal development should be punishable by law. States are also required to set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Adequate standard of living and mental and physical health

Article 11 provides for the right to own adequate standard of living.

According to Article 11(1) State parties recognize the right of everyone to an adequate standard of living for himself and his family including adequate food clothing and housing, and to the continuous improvement of living conditions.

Article 11(2) details certain provision to advance the right of individuals to freedom from hunger. The obligation which the committee has termed 'The obligation to fulfill represents a substantial commitment. This particular obligation to fulfill the right to food has not been the subject of extensive investigation on the part of the international community. Were such an investigation conducted, many states would find themselves breaching fundamental norms of human rights law.

The realization of the right to health may be pursued through numerous. Complementary approach as such as the formulation of health policies or the implementation of health programmes developed by the world Health Organization, (WHO), or the adoption of specific legal instruments. Moreover the right to health includes certain components which are legally enforceable".

Education Rights

Article 13, provides for the right of everyone to education. This article is the most wide ranging a comprehensive article on the right to education in International Human Rights law. Article 13 in reinforcing the value of education in the advancement of human rights, forms part of a substantial jurisprudence which international and regional organizations have accumulated on this subject.

Article 13 represents a synthesis of the right to education. In accordance with the provisions for the thorough realization of this right state parties are committed to ensuring free, compulsory primary education and education in a range of forms including technical and vocational secondary education, higher education which is accessible to everyone

on the basis of capacity and merit and adequate provisions for adult education.

Article 13(3) provides autonomy to parents to select private schooling for their children. Article 13 are further reinforced by Article 14. Under Article 14, state parties undertake to adopt a detailed plan of action for the implementation of compulsory free education for everyone within two years if it does not already have such a system in place.

Cultural Rights

The rubric of the treaty accords great prominence to culture the treaty is entitled the International covenant on social, Economic and cultural rights.

Article 15 deals with right, According to this Article, "states parties recognize the rights of everyone to take part in cultural life. There is also a recognition on the part of states to allow individual the benefit of scientific progress and its applications, author can take benefit from the protection of the moral and material interests from any scientific, literary or artistic production steps undertaken by the states to realize the right necessary for the conservation the development and the diffusion of science and culture. Culture represents the most vital part of human existence the absence of a cultural association makes it difficult to forge common identities and establish social values.

3. Three Regional treaties connect with the Second Generation Human Rights, These are

- a. European Human Rights
- b. The Inter American system for the protection of Human Rights.
- c. African charter on Human and People's Rights

European Human Rights

In European Human Rights there are several institutions which have established mechanisms for protecting Human Rights. The role of at least three organization is worthy of consideration.

1. The council of Europe
2. The European Union and
3. The organization for security and co-operation in Europe.

This convention contained the following right related to Economic social and cultural rights.

Article 4, Prohibition of slavery and forced labour.

Article 8, Right to respect private and family life.

Article 12, Right to Marry.

4. The Inter American System for the protection of Human Right

This system also deals with Economic cultural and social Rights.

Article 26, Provides that, "The state parties undertake to adopt measures both internally and through international co-operation especially these of an economic and technical nature with a view to achieving progressively by legislation or other appropriate means the full realization of the right implicit the economic, social, educational, scientific and cultural standards set forth in the charter of the organization of American states as Amended by the protocol of Buenos-Aires." The provisions in this Article have been supplement by the protocol on economic, social and cultural rights.

5. African charter on Human and peoples Right

African charter contains a number of economic, social and cultural rights.

Article 15, of this charter provides for the right to work. This right is contained in the UDHR, ICISCR, ESC and TEU.

This charter provides for the right to enjoy the best attainable state of physical and mental health. The state parties under an obligation to provide health and medical services for the population.

The right to health is an important right.

Article 16, States.

1. 1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.
2. State parties to the present charter shall take the necessary measures to protect health of their people and to ensure that they receive medical attention when they are sick.

Article 17, covers a wide range of interrelated rights individuals are accorded the right to education.

Article 18(3) is a comprehensive clause concerning prohibition of discrimination against women. These provisions appear to place for reaching obligations in relation to protect the rights of women and children.

6. Group Rights

Related with economic, social & cultural rights.

- a. Non-discrimination
- b. Rights of minorities
- c. The Rights of peoples and indigenous peoples
- d. The Rights of Women
- e. Right of the child.

The conditions of the Second Generation Human Rights In case of Minorities (International Perspective):

1. Problems

Minorities as groups exist everywhere in varied forms and sizes. There are ethnic, linguistic, cultural, racial, religious, sociological and political minorities in practically every state of the world.

Religious linguistic and cultural autonomy is not a moral concept for minorities its history stretches to the time when minorities as distinct groups came to be recognized. Medieval and modern history presents many revealing instances of the granting of autonomy to religious minorities.

As for example, in the Aaland Island, the free city of Danizing and the Memel territory. The mechanisms installed to protect minorities proved defective and along with minority treaties collapsed well before the Second World War.

Chapter XI of the UN charter concerns non-self-governing territories and Art 73 applies to territories whose peoples have not yet attained a measure of self-government.

A focus of this nature upon territorial elements meant a lack of consideration for ethnic, linguistic and religious groups who were without territorial base.

2. Prospects

To protect the minority rights various provisions enacted: In the UDHR a number of rights are contained on the basis of minorities' protection.

Article land 2, Deals with the right to equality and non-

discrimination, freedom of thought, conscience and religion of minorities.

Article 18, Freedom of opinion and expression'

Article 19, Peaceful assemble and association.

Article 20, the right to education.

ICESCR provides various provisions in order to protected minorities right.

Article 15 undertakes to take part in cultural life.

Article 27 ICCPR provides protection of ethnic, linguistic and religious minorities.

Article 27 is not only weak in placing positive obligations on state party but it also limited in scope as far as the issue of locus standi.

In the case, Sandra Lovelace VS Canada (1984) establishes the possibility of vindication of minority rights using Art 27.

In ICCPR many recent initiatives have been taken.

Article 2(2) provides wide ranging participatory right o persons belonging to minorities in culture religions, social, economic and public life.

Article 4 provides provision connected with non-discrimination of the right of minorities.

1. State shall take appropriate measure connected with in order to exercise fully and effective human right.
2. Develop their culture, language, religion traditional where specific practices are in violation of national international law.
3. Participate in Economic progress and development in their country.
4. In the field of education to encourage knowledge of History traditions, language, culture.

Regional efforts are taken to protect minority right.

The Framework European for the protection of National Minorities 1994 is the binding instrument it came into force 1998.

3. Limitations

1. In general minorities have no locus standi.
2. In south Asia, the Middle East and Africa remain devoid of initiatives to protect minorities.

The Conditions of the Second Generation Human Rights in case of Migrant Peoples (International Perspective)

The Economic, social and cultural rights of migrant peoples are violated in many ways- **Focus on:**

- The treatment of Female Migrant workers
- Discrimination

1. Problems

The Treatment of Female Migrant Workers

Many female migrant workers are employed in the domestic sector, making them particularly, vulnerable to abuse and exploitation by employers. Female migrant workers are often forced to work long hours (Sometimes fourteen hours per day) without rest days for low or unpaid wages. Their movement is often restricted--innumerable women are held captive, locked in their employers' homes and riot allowed to leave or communicate with anyone-and their living conditions are inadequate. To make matters worse, female migrant workers are often mistreated by employers, who

abuse them physically, psychologically and sexually.

Discrimination

According to Article 7 of the International Convention on the Protection of the Rights of AU Migrant Workers and Members of Their Families, "states parties should respect and ensure the rights contained in the Convention without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status." Article 1 also states that the "Convention applies to all migrant workers and members of their families without distinction of any kind." These stipulations are referred to as "the right to non-discrimination."

While some of this is legally justified (see the Siracusa principles instance screening for highly infectious diseases such as SARS-other border screening practices violate "the right to nondiscrimination." For example, the World Health Organization argues that screening for HIV/AIDS-especially when it results in deportation-is unnecessary and discriminatory because 1) research shows that allowing I-IN infected migrants into a country does not add any additional risk of contracting the disease to the local population and 2) HIV exists in all countries of the world. Yet, all migrant workers who tested positive for HIV/AIDs in 1998 were repatriated and the US State Department re that 60 countries still require long- term visitors to be screened for the disease.

2. Prospects

The Committee on the Elimination of Racial Discrimination (CERD), established under Article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination (1965), which was set up under the Office of the High Commissioner on Human Rights and concerned by issues of discrimination against foreign workers, their Spouses and their children, commissioned a report on the rights of non-citizens. The CERD expressed concern about violations of the following rights guaranteed under the International Convention on the Elimination of All Forms of Racial Discrimination:

- The "exploitation of foreign workers including practices of debt bondage, passport deprivation, illegal confinement, and physical assault including rape."
- Discrimination in the workplace and obstruction by employers of the free choice of employment (protected under article 5), which gives migrants access to all professions and trades.
- Denial of the rights of children of foreign workers to join their parents in the host State and to be provided an education in their own language.
- Discrimination in employment, housing and education and denial of equal access to courts and administrative bodies (article 6).

UN Initiatives to Protect the Human Rights of Migrants

In 1948, the IIN General Assembly (GA) adopted the Universal Declaration on Human Rights (UDHR) and proclaimed the document should be "a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms

and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction."

By 1975, the ILO had adopted Convention Concerning Migrations in Abusive conditions und the Promotion of Equality of Opportunity and Treatment of Migrant Worker, defining the term mi rant worker and recognizing the abuses specific to this subset of people.

On December 17, 1979, the General Assembly (GA) adopted resolution 34/172 and a working group was established in 1 980 to draft a convention on the rights of migrants specifically. The GA encouraged all Member States to participate in drafting the convention along with all related international organizations-the Commission on Human Rights.

The Conditions of the Second Generation Human Rights in case of Women (International Perspective):

1. Problems

From the very moment of her birth, the girl child confronts a world which values her existence less than that of boys. Girls face obstacles in education, nutrition, health and other areas solely of their sex. They are viewed as having a 'transient presence' to be married young and then judged by their ability to pro create. As they mature into women, they are thrust into a cycle of disempowerment that is very likely to be their daughter as destiny as well.

Within the sanctify of the home, women in many parts of the world are regularly subjected to mental and physical violence or sexual abuse, such as incest, rape, 'dowry deaths', wife battering, genital mutilation, prostitution and forced sterilization. In these social structures women have to undergo a persistent cycle of rejection, subordination and shame. Old age and disability have a substantially negative impact on the lives of women. Disabled women, as the Committee on Economy Social and Cultural Rights has noted, suffer from double discrimination.

2. Prospects

It is encouraging to note that the United Nations has undertaken positive steps to combat discrimination and violence against women in both the public and private domains. The United Nations Convention on the Elimination of All Forms of Discrimination against Women, the primary focus of this chapter, prohibits discrimination in any other field. At the same time it is important to note that difficulties have arisen in enforcing the norm of nondiscrimination in the domestic sphere. Such difficulties are apparent through a large number of reservations to significant provisions contained in, for example, Article 16 of the Convention.

The South-Asian Association for Regional Cooperation (SAARC) has frequently raised the issue of violations of the rights of children and women. The years 1991-2000 were designated as the SARRC Decade of Girl Child.

The Convention on the Elimination of All Forms of Discrimination against Women takes the following steps to establish Women rights

- a. Article 5 of the convention modifying social and cultural patterns to eliminate ideas based on superiority or inferiority of either sexes or on stereotyped roles for

- men and women.
- b. Article 10 of the convention deals with equality in education of women.
 - c. According to Article 11(2), States undertake to prohibit dismissals on grounds inter alia of Pregnancy.
 - d. Article 12 of the Convention deals with the important subject of equality in health care, including family planning assistance. CEDW has made a General Recommendation in pursuance of Article 12.

Fourth World conference on Women, Beijing, China-September 1995, Action for Equality, Development and Peace place a vital role in order to protect Women Rights. (Annexure-II)

3. Limitations

Despite these positive features the convention still suffers from significant substantive and procedural weaknesses.

The Condition of the Second Generation Human Rights in case of Children (International perspective):

1. Problems

Violation of the rights of children represents a common occurrence in many parts of the world. These violations take the form of torture, cruel, inhuman or degrading treatment, disappearances, excessive work and labour, prostitution sexual abuse and slavery. Children also form a significant proportion of the global refugee or stateless population. Millions of children around the world are at serious risk of starvation and malnutrition; according to one estimate, malnutrition, starvation and disease leads to the deaths of 40,000 children every day.

2. Prospects

The Convention on the Rights of the Child 1989

1. The basic thrust of the Convention is that the Child has independent rights and the primary focus of the Convention is to operate in 'the best interests of the Child'.
2. Article 34 is also a very significant Article of CRC Children suffer from all forms of sexual exploitation and abuse which the Article designs to criminalize. Child pornography, prostitution, sale as servants and bonded labour, ritual and satanic abuse, or transcultural or transracial adoptions are also widespread contemporary phenomena.
3. Article 24 of CRC expands on this right noting that the State the State parties recognize the right of 'the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health'
4. Article 32 of CRC states that every child to be protected from economic exploitation, works that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual and moral or social development. The minimum age for admission to employment should be fixed by the states.

3. Educational Rights

According to Article 28(1) of CRC States parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity.

- a. Make primary education compulsory and available and free to all;
- b. Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- c. Make higher education accessible to all on the basis of capacity by every appropriate means;
- d. Make educational and vocational information and guidance available and accessible to all children;
- e. Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

4. Limitations

The inadequacy, insufficient information, etc. is reflected in the observations of this committee. With its enormous workload over the last decade, the Committee is increasingly under pressure. There is currently a backlog of reports. However, if the reports are being produced on time, it is inevitable that a delay in their consideration the reports may be outdated. Another concern regarding the Committee's consideration of the reports has been the inadequate attention given to some sets of rights.

The Implementation of the Second Generation Human Rights of Bangladesh

Article 15 of The Constitution of Bangladesh says about basic necessities.

According to this article, It shall be fundamental responsibility of the state to attend, through planned economic growth, a constant increase of productive forces and steady improvement in the material and cultural standard of living of the people with a view to securing to it's citizens-

- a. The provision of the basic necessities of life including food, clothing, shelter, education and medical care;
- b. Right to work, that is the right to guaranteed employment at a reasonable employment at a reasonable wage having regard to the quantity and quality of work;
- c. Right to reasonable rest, recreation and leisure;
- d. Right to social security, that is to say, to public assistance in cases of undeserved want arising from unemployment, illness or disablement, or suffered by widows or orphans or in old age, or in others such cases.

Article 17 of Bangladesh Constitution says about free and compulsory education:

According to this article- The state shall adapt effective measures for the purpose of-

- a. Establishing a uniform, mass oriented and universal system of education and extending free and compulsory education to all children to such stage as may be determine by law.
- b. Relating education to the needs of society and producing properly trend and motivated citizens to serve those needs.
- c. Removing illiteracy within such time as determine by law.

Article 18 of Bangladesh Constitution Says about public Health and morality

According to this article

1. The state shall regard the raising of the level of nutrition and the improvement of public health as among its primary duties, and in particular shall adopt effective measures to prevent the consumption, except for medical purposes or for such other purposes as may be prescribed by law, of alcoholic and other intoxicating drinks and of drugs which are injurious to health.
2. The state shall adopt effective measures to prevent prostitution and gambling.
Article 19 of Bangladesh Constitution says about equality of opportunity.
According to this article (1) The state shall endeavor to ensure equality of opportunity to all citizens.
3. The state shall adopt effective measures to remove social and economic inequality between man and man and to ensure the equitable distribution of wealth among citizens, and of opportunities in order to attain a uniform level of economic development throughout the Republic.
Article 20 of Bangladesh Constitution says about work as right and duty.

According to this article - work is a right, a duty and a matter of honour for every citizen who is capable of working and every one shall be paid for his work on the basis of the principle "From each according to his abilities to each according to his work."

The Condition of the Second Generation Human Rights in case of Women (Bangladesh Perspective):

1. Problems

In Bangladesh, women are greatly deprived from their economic social and cultural Rights.

Women are discriminated from various spheres of rights than men.

Sometimes women labourer does not get same wages like men at working place.

Sometimes women require permission from their husbands before being able to work outside their homes.

Sometimes women faced sexual harassment and intimidation at working place.

Women are not socially secured. They faced many violence like physical, sexual and psychological violence occurring in the family including battering, sexual abuse of female children in the household, dowry related violence.

Sometimes husbands abusing the right of Talaq against their wives.

Now a day's women faced Acid throwing violence in a large number.

2. Prospects

Various steps were taken in order to protect and ensure the Economic, Social and Cultural Rights:-

1. According to section-10 of the Penal Code, 1860 the word man denotes a male human being of any age; and the word "woman" denotes a female, human being of any age.
2. The term "woman" is also defined in section-2 (G) of the Women and Child Repression Act, 2000 (2003) as a woman of any age'
3. In our constitution it is mentioned in article-28 (2) that

women shall have equal rights with men in all spheres of the State and of public life. The same article in clause -4 states that nothing in this article shall prevent the State from making special provision in favour of women and children or for the advancement of any backward section of citizens. By amending the constitution through XI' amendment it is provided that except three hundred seats in the Parliament rest 45 will be preserved only for the women who will be selected as per the ratio of the political parties representing in the Parliament.

4. Article-27 of the Constitution provide that all citizens are equal before law and are entitled to equal protection of law. In respect of criminal offences a woman will get some preferences than a man such as a death penalty will not be applied against a woman if she is pregnant under section-382 of the CR PC and also a woman even after committing a non-bailable offence may be released in bail under section-497 of the same Code,
5. Here are some special laws in our country which was enacted to protect women from repression such as "Women and Child Repression prevention Act. 2000 (2003). The Dowry prohibition Act. 1980: the Child marriage Restraint Act. 1929; the Acid Violence Prevention Act, 2002 etc.
6. In Bangladesh there are three special Courts mainly discusses with the rights of a woman and child which are as follows:

Family Courts

It was established under the Family Courts Ordinances. 1985. Section-5 of the Ordinances provides that subject to the provisions of MFLO (Muslim Family Law Ordinances. 1961) a Family: Court (i.e. Asst. /Senior Asst. Judge) will have jurisdiction over the following matter i.e. (i) marriage and dissolution of marriage, (ii) restitution of conjugal life (its one kind of decree which cannot be executed). (iii) Dower (iv) Maintenance, guardianship and custody of children.

Inheritance and partition suits will be tried by the civil Courts. The Family Court will act through ADR (Alternative Dispute Resolution i.e. Mediation, arbitration or conciliation: section-i.e. of Family Courts Ordinance and section-02 of MFLO at first and if fails to compromise the dispute through settlement than judicial proceedings will be continued. The Arbitration Council will be composed of b the Chairman of the concerning Ups! Municipal' Corporation and two other members each from the parties.

The Acid violation prevention Tribunal (Acid Apradh Damon Tribunal)

There are two special Laws on Acid violence in Bangladesh one is The Acid Control Act.2002 and another is The Acid violation Prevention Act, 2002.In section-23 of the later laws it was inserted provisions for the establishment of an Acid violence prevention Tribunal. Under section-26 of the Act an appeal will lie to the HCD within sixty days from the date of judgment by the Tribunal.

The Women and Child Re-Prevention Tribunal (Nari-O-Shishu-Nirjatan Damon Tribunal)

In every district there must be a Tribunal known as Nari-O-Shishu Nirjatan-Damon-Tribunal (Women and child repression prevention tribunal) as mentioned in section-26

of the Act, 2000.

This Court mainly takes into cognizance of offences relating to Ransom, kidnapping, trafficking, abduction, corrosive substances, dowry etc. when the Tribunal will follow the provisions of CRPC highest punishment for offences is death penalty fine an appeal will lie to the HCD with in sixty days from the decision of the Tribunal. There are 34-sections in the law.

The conditions of the Second Generation Human Rights in case of Children (Bangladesh Perspective)

In Bangladesh the word 'child' is defined in many laws but the definition are not identical. Every law relating to the child emphasizing on the age of a person to identify him/her as a child. Recent the government has enacted, "Birth and Death Registration Act 2004 which is now in force to determine the age of a child.

1. Problems

In Bangladesh children are deprived from Economic and Social Rights.

1. Children are engaged in labour which are harmful to their physical and mental health.
2. Many children are deprived from their educational opportunity.
3. They faced various kinds of violence and cruelty.
4. Girl child are encouraging, exposing and seducing, sexual intercourse or prostitution. Rape is occurring frequently in Bangladesh. Daily News Paper are full of such stories. Minor girls are main victims.
5. Child Marriage takes place in large number especially in case of girl child.
6. Now days it is seen that children are faced Acid throwing violence.

2. Prospects

1. Childhood needs careful protection guaranteed by law. That is why having all the divergent tendencies the LN has at last ratified the UN convention on 'Child Rights' and it is immensely satisfying that Bangladesh has been one of the original signatories. To make the convention effective, it has to become a part of the internal domestic law as well.
2. Rape is punishable with a fine and imprisonment extending up to ten years under sees 375 of the penal code.
3. The cruelty to women ordinance 1983 (Applies to incase of child also)
4. The most recent and consolidated legislation related to children is the children Act, 1974 will be described in details at relevant places. Part VI will be discussed here, which has created special offences in respect of children.

S 24- Cruelty to child-penalty fine and/or maximum 2 years imprisonment.

S 35- Employing children for beginning-penalty fine Tk. 500/- +1 year imprisonment.

S 37- Giving dangerous drug to a child-penalty fine Tk. 500/- + 1 year imprisonment.

S 39 - Encouraging a child to gamble or

S 40- Pawn or pledge from a child

S 41- Allowing children to be in a brothel.

S 42/43- Encouraging exposing and seducing sexual

intercourse or prostitution of girl child under 16-penalty up to 2 years imprisonment. Court can use for recognizance from guardian.

S 44- In the guise of child labour exposing children to sexual abuse or living on immoral earnings-2 Years imprisonment, Tk. 1000/- fine.

S 45- Helping escapes of a child or juvenile offender.

Poverty

Every person has a right to an adequate standard of living including adequate food' clothing and housing and continuous improvement of living condition. But In Bangladesh these rights are not ensure. A large number of people lead a very below standard of living' Many persons are deprived from their educational right. Many people live in slum area. They lead a very unsound and unhygienic life. They are engaged in many unfair social work' Many persons are also engaged in crime because of unemployment one of the cause for property the improper distribution of poverty. So, In Bangladesh Economic Rights are not ensured.

Recommendations

1. The Monitoring systems connected with Second Generation Human Rights must be informative.
2. The Implementation procedure of the Second Generation Human Rights must be modified. The implementations of economic and social rights are very straight forward. The implementations mechanisms have to be revised and individual complained procedure must be adopted.
3. Comprehensive reviews of National legislation administrative rules regarding these rights must be need.
4. National adequate scrutiny of governmental policies must be need.
5. The action plans which are taken in order to ensure economic, social and cultural rights made to be fruitful.
6. All the regional treaties connected with economic social and cultural rights made to be fruitful.
7. In Bangladesh all the steps which are taken connected with economic, social and cultural rights; these must be implemented properly.

Conclusion

From the above Analysis of the second Generation Human Rights which include Economic, Social and cultural Rights contained in the UDHR, ICESCR, Regional Human Rights systems reveal many limitations and shortcomings. A particularly disturbing aspect has been the debate about the nature of many of the rights contained in the ICESCR; whether they create immediate binding obligations or a mere programme of action. Through a consideration of the provisions of the ICESCR, the Committee's Observations and General Comments established that economic, social and cultural rights retain the same legal value and binding effect as civil and political rights. The Committee of ICESCR since its establishment in 1985, has done a commendable job in monitoring the Covenant, of particular value have been its views

Emerging from its analysis of State reports and General Comments. In its consideration of State reports, the Committee has taken a broad approach which encompasses human rights obligations incurred through the acceptance of ICESCR. "The questions on the status of ethnic minorities,

natural children, women and men or discrimination on the basis of religion, alternative political philosophies and class bias [the Committee] has directed itself to the situation of those in particular regional areas, aliens (including the stateless, migrant workers and refugees) unmarried couples, and parents, people with AIDS, or physical and mental disabilities, homosexuals, the poor and the elderly. Economic, social and cultural rights have blended into civil and political rights, a feature particularly evident from a survey of the jurisprudence of the regional treaties of Europe, the Americas and Africa, The regional human rights systems have also accorded a degree of prominence to economic and social rights

Through the adoption of such treaties as the European Social Charter, the additional Protocol to European Social Charter (1996) and the Additional Protocol to the American convention on Human Rights in the Area of Economic, Social and Cultural Rights (1988). The constitution of Bangladesh also included some of those rights. The NGO's plays an important role in this respect. So it can say that the Economic, Social and Cultural Rights plays a vital role in order to ensure the protection of Human Rights.

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