

Title: Socio-Economic Rights in the Constitution: From Principle to Practice

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Abstract

Socio-economic rights (SERs) in the Constitution of Bangladesh formally assure access to education, health, food, housing, employment, and social security, which are essential for dignity and equality, but they are placed in the non-justiciable Part II as Fundamental Principles of State Policy, creating an ongoing disparity between principles and implementation. This study aims to explore how the real execution of SERs is influenced by constitutional structures, governance weaknesses, and political economy "containment" dynamics. The research develops a conceptual structure linking constitutional design, mediating obstacles, institutional responses, and socioeconomic outcomes via a qualitative thematic documentary analysis of constitutional clauses, legal precedents, government data, and scholarly writings. The findings reveal that, even with notable progress in areas such as basic education, weak enforcement is hampered by insufficient funding, lack of legal support, and reserved judicial interpretation, resulting in marginalized groups possessing rights that are mainly theoretical. Even though they provide certain solutions, indirect methods such as the right to life and public interest litigation remain scattered and dependent on the court's discretion. The research suggests that to implement SERs, justiciability needs to be reassessed, institutions should be enhanced, and hybrid enforcement mechanisms combining increased judicial oversight, improved governance, and essential legislative minimum standards must be established.

Keywords

Progressive realization doctrine, Non-justiciable rights framework, Judicial interpretation of social rights, Political economy of constitutionalism, Bangladesh socio-legal analysis, Qualitative thematic documentary analysis

1 Introduction

Socio-economic rights refer to human rights which ensure that human beings can live with dignity and equality. These rights cover the right to education, health care, food, housing, work, and social security (International IDEA, 2014). Many modern constitutions, especially those of developing countries, have recognized the importance of ensuring social justice through the recognition of socio-economic rights. Through the recognition of such rights within the constitution, the government assumes the role of improving the living conditions of their citizens through the reduction of inequalities (Kivotidis, 2025).

Although the constitution may provide health care and social services, the true situation can be very far removed in many instances, owing to resource limitations, governance issues, and a lack of political will (Shahen et al., 2020). Indeed, governments have relied on the principle of "progressive realization" in the implementation of rights; unfortunately, this principle has been employed as a mechanism for delay in many instances and not for development. As a result, marginalized communities find themselves suffering in poverty and in the lack of provision of essential services, and the divide between constitutional rights and their fulfillment becomes huge (ADIP, 2022).

This divergence becomes even more apparent in the case of Bangladesh. Unlike Zimbabwe and Kenya, which follow the "Enforceable Rights" model where these rights are made binding and enforceable through law, the positioning of Socio-Economic Rights (SERs) in Bangladesh is not the same. In this country, these rights are placed under the domain of "fundamental principles of state policy," which are not strictly justiciable (enforceable through law), thereby making these rights subsidiary. This meant that in this case, the realizing of these rights becomes difficult for the nationals despite the increasing allocation of the budget by the government (Waheduzzaman, 2014).

Enforcement models in other countries, including "reasonableness" analysis in South Africa, "proportionality" models in Kenya, and so forth, have already been comprehensively covered and analyzed in current literature. Yet, there remains a substantial research gap concerning the dynamic nature of the strict "non-justiciable" framework applied in Bangladesh. Though there are certain comments about how "indirect protection" can be offered through "right to life," there remains a lack of any significantly profound analysis concerning judicial activism and policy barriers erected by the administration (Ngang, 2014).

This study identifies core tensions where socio-economic rights in Bangladesh are constitutionally recognized as Fundamental Principles of State Policy yet remain non-justiciable, producing a persistent gap between constitutional principle and practical enjoyment of rights through weak enforcement, continuing poverty, service deficits and limited judicial activism. From this, the problem statement can be framed as follows: although socio-economic rights are formally embedded in the Constitution as guiding principles, their non-justiciable status, combined with governance failures and political-economy dynamics, prevents these guarantees from being effectively realized in people's everyday lives. This leads to the central research

question: how, despite their non-justiciable constitutional status, can socio-economic rights in Bangladesh be translated from aspirational principles into enforceable, accountable practice through constitutional interpretation, institutional action and policy reform? Moreover, there is a lack of examination in current talks concerning "political economy" perspective. The chance for including such rights in the constitution might be for "containment policy" purposes. It suggests that including such rights in the constitution could perhaps be a strategy for lessening social movements and making the population calm without there being any efforts for covering existing gaps concerning inequality (Shughart et al., 2005). In this light, this study is assumed to have critical importance from the above dilemmas. The study aims to reveal how the constitutional mandates can be ensured and how the presumption that these are simply moral obligations can be moved away. In this way, the study can give meaning to the accountability of the state and the translation of the constitutional promises into reality constitute.

1.1 Objectives

1. To critically explain how socio-economic rights are conceptualized in the Constitution of Bangladesh and why they matter for dignity, equality, and social justice.
2. To analyze the constitutional provisions and the implementation of constitutional principles related to socio-economic rights.
3. To identify the key challenges in the practical enforcement of socio-economic rights.
4. To assess how the state, judiciary, and other public institutions can transform socio-economic rights from aspirational constitutional principles into enforceable and accountable practices.

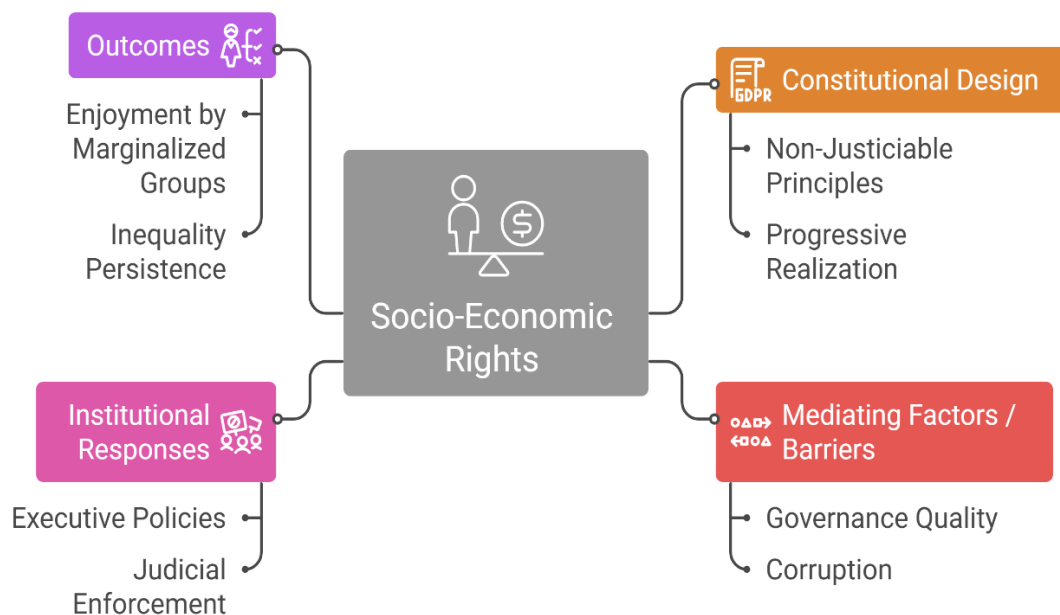
1.2 Literature Review

Scholarship on SERs distinguishes between justiciable models (South Africa, Kenya) and aspirational frameworks (Bangladesh, Nigeria). In Bangladesh, Articles 15-20 under Part II are non-enforceable per Article 8(2), creating a "massive legal hurdle" for direct claims, though indirect protection via Articles 31-32 (right to life) has emerged (Islam, 2017; Desierto, 2009). South Africa's "reasonableness review" balances judicial intervention with budgetary deference, contrasting Bangladesh's judicial restraint (Kende, 2003; Sunstein, 2001). Political economy critiques frame SER constitutionalization as elite "containment" of unrest, neutralizing movements without redistribution (Murray, 2015; O'Connell, 2011). Access barriers, including ineffective legal aid, exacerbate gaps (Islam, 2017). Intersectional analyses link SERs to substantive equality, addressing poverty's gendered and class dimensions (Liebenberg & Goldblatt, 2007). Bangladesh-specific gaps persist in judicial activism and administrative barriers.

1.3 Conceptual Framework

This study is guided by a conceptual framework that links constitutional design, mediating barriers, institutional responses, and socio-economic outcomes. In the framework, the constitutional design of socio-economic rights in Bangladesh (their placement as non-justiciable Fundamental Principles of State Policy and the use of progressive realization) shapes the possibilities for enforcement. This design operates through mediating factors, including governance capacity, corruption, resource allocation, political-economy incentives, and the degree of judicial activism or restraint. These mediating factors influence institutional responses, namely how the executive allocates budgets and implements programmes, how the judiciary interprets Articles 31–32 to give indirect protection, and how bodies such as legal aid committees and the National Human Rights Commission act. Together, these responses determine outcomes in terms of the actual enjoyment of socio-economic rights by marginalized groups and the size of the “principle–practice” gap. Conceptually, the relationships can be summarized as:

Conceptual Framework for Socio-Economic Rights



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2 Methodology

The study used a qualitative, socio-legal research approach with thematic documentary analysis to investigate the formulation and application of socio-economic rights in Bangladesh. The

Bangladeshi Constitution (with a focus on Articles 8, 15–20, and 31–32), published High Court Division rulings on socioeconomic rights and the right to life, government statistical reports on health, education, and social protection (such as BBS, BANBEIS, and WHO), and peer-reviewed literature on justiciability, progressive realization, and political-economy critiques of social rights comprised the unit of analysis. In order to guarantee direct relevance to the non-justiciable SER architecture and its enforcement channels, documents were purposefully chosen. Braun and Clarke's six-step thematic analysis method was used to code the data: familiarization with texts; initial code creation; code collation; topic development and review; theme definition and name; and analytical write-up. The codes were arranged both inductively to capture emergent patterns like "containment," "jurislimitation," and "indirect enforcement" and deductively around the study objectives (conceptualization, provisions/implementation, obstacles, institutional responsibilities). Constantly comparing different document formats and clearly connecting topics to the conceptual framework that links institutional actions, socioeconomic results, mediating hurdles, and constitutional design improved credibility.

3 Findings

3.1 Concept and Importance of Socio-Economic Rights

This subsection described how Bangladesh's scholarly and constitutional writings framed SERs. The Constitution acknowledged SERs as necessary for social justice, equality, and dignity, and it was believed that by ensuring basic needs, the state would be obligated to lessen inequality. Article 15 emphasized their role in post-independence equity by requiring the supply of food, shelter, healthcare, and education (Constitution of Bangladesh, 1972). Although these rights were depicted as potentially revolutionary throughout the studied literature, they were nevertheless seen as inferior to civil-political rights in both legal interpretation and practice.

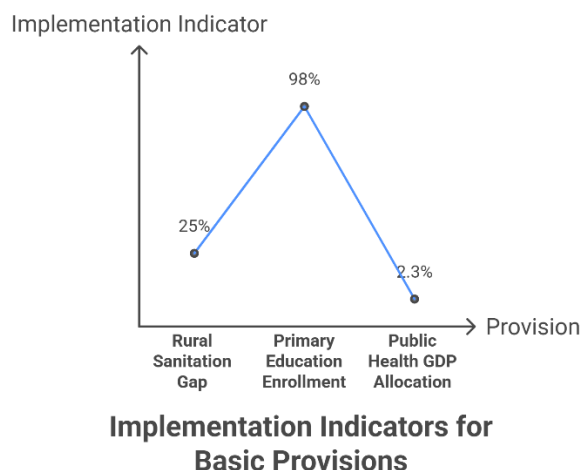
3.2 Arguments for "Socio-Economic Rights in the Constitution"

The second set of findings focused on normative discussions regarding the proper handling of SERs by courts and constitutions. According to the analysis, Ngang described the prevalent approach as a "jurisprudence of accountability," in which courts merely required governments to defend their actions rather than mandating specific changes, a position that seldom improved the material circumstances of people (Ngang, 2014). Proposals for a more forceful "jurisprudence of exasperation," in which courts would have taken more drastic corrective action when governmental neglect was severe, were contrasted with this viewpoint. According to O'Connell (2011), the principle-practice gap widened as a result of courts adopting "market-friendly" interpretations that were structurally unfriendly to SERs due to global neo-liberal influences. Desierto argued that rather than being postponed until later legislation, certain rights, including health, ought to have been considered self-executing and instantly enforceable (Desierto, 2009). The results showed that, despite the Constitution's vision of a socially just order in Bangladesh, these provisions frequently remained "theoretical only" in the lack of consistent governmental and judicial effort (Rayhan & Khan, 2020).

3.3 Constitutional Provisions and Implementation

This subsection explained the relationship between implementation indicators and constitutional sections. Basic necessities (Article 15), rural development (Article 16), primary education (Article 17), public health (Article 18), environmental protection (Article 18A), equitable distribution of utilities (Article 19), and rights relating to work (Article 20) are just a few of the SERs listed in Part II of the Constitution (Articles 15–20). These clauses were categorized as non-justiciable under Article 8(2), which structurally restricted direct enforcement. A mixed implementation record was shown by

quantitative indicators: primary net enrollment reportedly reached about 98 percent, indicating significant progress in access to education, while health spending stayed at roughly 2.3 percent of GDP and a large rural sanitation gap persisted, indicating ongoing deficiencies in essential elements of a sufficient standard of living (BANBEIS, 2023; WHO, 2023; BBS, 2022). Instead of restating every value in the table, the results highlighted how education policy had progressed more quickly than financing for health and basic services, supporting the general trend of a persistent but uneven principle-practice difference.



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Article	Provision	Implementation Indicator
15	Basic necessities	25% rural sanitation gap (BBS, 2022)
17	Primary education	98% enrollment (BANBEIS, 2023)
18	Public health	2.3% GDP allocation (WHO, 2023)

3.4 Key Challenges in Enforcement

The primary obstacles that had prevented SERs from being effectively enforced were identified in the fourth set of findings. The idea of progressive realization appeared in practice to rationalize delays rather than constant improvement, and resource constraints and governance inefficiencies were frequently emphasized. According to empirical reports, the 2000 Act's statutory legal aid mechanism remained inadequate due to poor compensation and low public awareness, while political will frequently faltered in the face of corruption and conflicting agendas (Islam, 2017). Judicial reluctance to step in was conceptually explained by Ngang's explanation of "jurislimitation" and the polycentric structure of socio-economic situations

(Ngang, 2014). These flaws were made further more apparent during the COVID-19 pandemic, when urban slum dwellers suffered from acute lack of social protection, health treatment, and income.

3.5 Role of State, Judiciary, and Institutions

The results of how various institutions have responded within this limited framework were summarized in the last subsection. Although the state was still primarily in charge of SERs, it tended to put growth-oriented policies and fiscal reduction ahead of redistributive social spending. Only indirect enforcement was provided by judicial authorities: notable cases like *BLAST v. Government* (2010) linked maternal health obligations to Articles 15 and 18, and *BLAST v. Bangladesh* (2005) linked Article 15 to the right to life in relation to food security, but these rulings remained exceptional and dependent on strategic litigation. Public agencies, such as local legal aid committees and the National Human Rights Commission, kept an eye on infractions and provided limited access to justice, but they lacked sufficient funding and robust enforcement capabilities. When taken as a whole, these results demonstrated that the gap between lived realities and constitutional promises had been somewhat reduced but not entirely eliminated by institutional solutions.

4 Discussion

The findings demonstrated that although Bangladesh formally acknowledged socioeconomic rights as essential to equality and dignity, they remained unenforceable and unevenly applied, resulting in the persistence of the principle–practice gap (Constitution of Bangladesh, 1972; Waheduzzaman, 2014). This meant that whether SERs were lived realities or primarily symbolic commitments was shaped by constitutional design, governance capacity, and political economy incentives. This helped explain why high primary school enrollment coexisted with low health spending and ongoing deprivation (BANBEIS, 2023; WHO, 2023; BBS, 2022; Islam, 2017).

In contrast to earlier research that solely analyzed the constitutional text or individual court rulings, this study linked three components: doctrinal discussions on a “jurisprudence of accountability” as opposed to more transformative strategies (Ngang, 2014), empirical measures of execution (BANBEIS, 2023; WHO, 2023; BBS, 2022), and the political economy perspective of SERs as tools for social “containment” instead of redistribution (Murray, 2015; O’Connell, 2011; Shughart et al., 2005). This combination indicated that non-justiciability by itself did not account for weak realization; instead, it interacted with prudent courts, underfunded institutions, and policy decisions favoring market-oriented reforms and fiscal tightening (Desierto, 2009; Kivotidis, 2025; Bayle, 2024)

The research question was addressed by demonstrating that SERs in Bangladesh were only partially implemented, primarily via indirect judicial applications of the right to life and selective social expenditures, and that these methods fell short of guaranteeing accountable fulfillment for marginalized groups (*BLAST v. Bangladesh*, 2005; *BLAST v. Government*, 2010; Islam, 2017;

Waheduzzaman, 2014). Recent findings encompassed the theoretical structure that connected constitutional design, intermediary obstacles, institutional reactions, and socio-economic results, along with the recognition of “hybrid” approaches—like soft justiciability, minimum core laws, and enhanced legal assistance—as feasible methods for bridging the divide without an entire constitutional reformation (Sunstein, 2001; Desierto, 2009; Kende, 2003; International IDEA, 2014)

However, the analysis depended on documentary sources instead of fieldwork, which restricted direct understanding of how officials, judges, and rights holders perceived and managed these restrictions (Braun & Clarke, 2006; Hani et al., 2022 if included). Subsequent studies might utilize interviews, surveys, or case study techniques to evaluate and enhance the suggested framework, as well as to more accurately assess how specific reforms such as enhanced legal aid funding or a specific SERs statute affect outcomes in the long term (Islam, 2017; Liebenberg & Goldblatt, 2007; Kende, 2003)

4.1 Practical Applications for Policymakers

Institutionalizing Legal Aid: To uphold the rule of law, policymakers in Bangladesh ought to enhance the "District, Upazila, and Union Legal Aid Committees" to provide affordable justice for the impoverished, as exorbitant costs currently hinder access to constitutional rights (Islam, 2017).

Developing Market Information Systems (AMIS): To ensure food security, it is crucial for policymakers to focus on creating methods for forecasting crops (specifically rice, wheat, and maize) and implementing stock assessment systems to address hoarding and fluctuations in market prices (WHO, 2023)

Complementary Governance: Rather than seeing judicial enforcement of SER as "interference," policymakers ought to regard it as a "supplementary approach" that aids in achieving the government's constitutional vision for social change (Bayle, 2024)

5 Conclusion and Recommendations

This research indicates that socio-economic rights in Bangladesh hold a contradictory status. They are recognized constitutionally as vital for dignity and equality, but limited to the category of non-justiciable Fundamental Principles of State Policy. This constitutional framework, along with governance challenges, restricted fiscal dedication, and a political economy rationale of “containment,” maintains a considerable disparity between principle and reality instead of bridging it. Though indirect judicial approaches via the right to life and public interest lawsuits provide certain safeguards, they are still disjointed, dependent on specific cases, and largely reliant on the judiciary's willingness. Consequently, marginalized groups still face inadequate access to education, healthcare, housing, social security, and food security, despite years of constitutional commitments

Future studies ought to enhance and organize the examination of this disparity in multiple ways. Initially, empirical research could identify patterns of SER implementation across various regions, classes, and genders, connecting particular institutional decisions (budgeting, program design, legal aid effectiveness) to quantifiable results in health, education, and social protection. Comparative analyses involving jurisdictions like South Africa, Kenya, or India might illuminate which mixtures of justiciability, judicial doctrines (such as reasonableness review or minimum core obligations), and political alliances are most successful in translating constitutional language into actual rights. Third, qualitative socio-legal studies involving judges, lawyers, bureaucrats, and impacted communities could examine how concepts of separation of powers, progressive realization, and “market-friendly” governance influence daily choices regarding SER enforcement. Ultimately, subsequent research could create and evaluate specific “hybrid” enforcement frameworks such as integrating soft justiciability, essential legislative core statutes, and enhanced supervision by human rights and anti-corruption entities to determine if they can bridge the principle-practice divide without causing constitutional impasse.

Acknowledgments

This research includes acknowledges to the teachers and mentors of research teams of CARO (Care for Assets, Resources, and Obligations) for the guidance and constructive feedback of teachers and mentors who helped refine the ideas and structure of this research. Appreciation is also extended to colleagues and peers for their insightful comments during discussions and workshops, which enriched the analysis of constitutional design, governance challenges, and judicial roles. The author further thanks the institutions whose reports, datasets, and legal materials made this study possible.

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