

Right to Food : A Case Study of the *Monga* Affected Northern Region of Bangladesh

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Abstract :

Human rights have two dimensions; one is 'civil and political' and the other is 'economic, social and cultural'. The first category of rights are clearly defined, well recognized and strongly protected by national and international instruments. The second category of rights are recognized but not well defined and its implementation process is also not effective. Right to food is one of the most important 'economic, social and cultural' rights. Many people in the current world are struggling with hunger. States are duty-bound by different international documents to provide food right to the minimum attainable level. These documents provide for necessary actions by states for the full realization of food-right. Bangladesh has been regularly facing monga, i.e., a famine like situation where many people remain hungry in some of its northern districts in the Bengali months of Ashwin and Kartic. Monga has immense impact on the life of the people of this part of the country. Among many other reasons, non-industrialisation, flood, government's reluctance and above all lack of job in Aswin-Kartic are viewed as the main causing factors of monga. The curse of monga can be removed permanently by addressing these factors positively. Bangladesh bears both international and national obligation under the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Constitution of People's Republic of Bangladesh to implement food right for the people. So, actions in an urgent basis are extremely necessary to be taken Government.

INTRODUCTION

Nowadays human rights have become a dominant ideology bearing universal recognition by all nations. Human rights are now considered as sine qua non for the holistic development of human personality. While dignity and autonomy remain essence of human rights, indivisibility and unity of the human person in the physical, intellectual and spiritual sense is sought to be philosophical basis upon which human rights are premised. Therefore, the expression "civil and political rights" and "economic, social and cultural rights" do not represent any hierarchy of one over another rather they only reveal various dimension of human entity. The world has recognised that all kinds of human rights are universal, indivisible, interconnected and interdependent. The right to food that is right to be free from hunger and malnutrition is a fundamental human right of every man, woman, youth and child. It is regarded as one of the most important human rights under the heading "Economic, Social & Cultural Rights". Right to food sometimes

become deeply related to right to life. The right to freedom from hunger is fundamental. This means that the state has an obligation to ensure, at the very least, that people do not starve. States should also do everything possible to promote full enjoyment of the right to adequate food for everyone within their territory. In other words, people should have physical and economic access to food at all times that is adequate in quality and quantity for a healthy and active life.

Since 1920 more than 120 international declarations, conventions and resolutions have addressed various issues related to the right to food¹. (Anderson et al. 1995) Many Regional documents protect the right to food directly or indirectly in Europe, America & Africa². (Ziegler 2002) Some 40 states have already enshrined food rights explicitly in their national constitution³. (Shahid 2004) But still, many states are reluctant in regarding food right as the basic fundamental human right and to implement this right for their people.

Bangladesh ratified the International Covenant on Economic, Social and Cultural Rights in 1998. Besides, under Article 15, 19 and 32 of the Constitution of Bangladesh, the state has an obligation to implement the right to food for all the people of Bangladesh.

State's obligation to implement right to food becomes immediate, direct and immense in situation when people starve or die in hunger. A famine-like situation which is called "Monga" is a recurrent phenomenon in the northern districts of Bangladesh, particularly the Greater Rangpur and Dinajpur areas where people starve or die for want of food. Here, state is under an obligation to make them free from hunger & to secure their fundamental right to life under national and international law.

LEGAL INSTRUMENTS ESTABLISHING RIGHT TO FOOD:

The duty to respect and protect one's neighbour's livelihood and to assist him or her in case of need has been expressed in all the great religious teachings and ethical doctrines. The right to the basic means of subsistence was expressed in some of the classic writings of the 17th and 18th century philosophy which gave rise to the notion of human rights. At present there are many international, regional and national legal instruments which establish food right as the basic legal and fundamental human right.

International Instruments:

Food, the basic and fundamental need of life, is organically connected to the most basic right to life. It is widely recognised in international law. In the 20th century, more than 120 declarations, conventions and resolutions have addressed various issues related to the right to food.

Universal Declaration of Human Rights, 1948⁴

Article 25(1) of the UDHR recognised that "everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, and the

right to security in the event of unemployment sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

International Covenant on Economic, Social and Cultural Rights, 1966⁵

Nearly 20 years later, the International Covenant on Economic, Social and Cultural Rights, adjusted by the United Nations General Assembly in 1966, further formalised the right to food as a basic human right. Article 11 of the covenant affirms that “the State Parties to the present covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food.” About 145 countries have ratified the 1966 International Covenant on Economic, Social and Cultural Rights.

Beijing Declaration and Platform of Action⁶

Para 92, 93 and 106 of Beijing Declaration and Platform of Action also addressed the right to food for women & girls. The Governments to the Conference were called upon to promote and secure household and national food security and to implement programmes aimed at improving the nutritional status of all girls and women including reduction of malnutrition among children.

CONSTITUTION OF FAO, 1965⁷

Preamble

The Nations accepting this Constitution and being determined to promote the common welfare by furthering separate and collective action on their part for the purpose of: raising levels of nutrition and standards of living..... and thus..... ensuring humanity's freedom from hunger, hereby establish the Food and Agriculture Organization of the United Nations.

UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD, 1989⁸

Article 24

2. States Parties shall . . . take appropriate measures . . .to combat disease and malnutrition . . . through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods..... .

Article 27

States Parties, in accordance with national conditions and within their means... shall in case of need provide material assistance and support programmes, particularly with regard to nutrition....

WORLD FOOD SUMMIT PLAN OF ACTION, 1996⁹

Commitment Seven

We will implement, monitor and follow-up this Plan of Action at all levels in co-operation with the international community.

Objective 7.4

To clarify the content of the right to adequate food and the fundamental right of everyone to be free from hunger, as stated in the International Covenant on Economic, Social and Cultural Rights and other relevant international and regional instruments, and to give particular attention to implementation and full and progressive realization of this right as a means of achieving food security for all.

Universal Declaration on the Eradication of Hunger and Malnutrition¹⁰

Article 1

"Every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop their physical and mental faculties."

Rome Declaration of the World Food Summit, 1996¹¹

"Considering intolerable that more than 800 million people throughout the developing world and millions in more affluent societies do not have enough food to meet their basic needs; that millions more experience prolonged hunger during part of the year or suffer birth defects, growth retardation, mental deficiency, lethargy, blindness or death because they do not have the diversity of food necessary to meet their total needs; ... convinced that world resources, human skills and technological potential do permit the achievement within one generation of sustainable food security if determined and concerted efforts are undertaken; we confirm our individual and common commitment to take considered action to ensure that all people have at all times secure access to the food they need for an active and healthy life with human dignity."

Agenda 21¹²

Chapter 3, Para. 8 and Chapter 14, Para. 6

"Sustainable development must be achieved at every level of society.... Governments ... should ... [promote] food security and ... food self-sufficiency within the context of sustainable agriculture.... All countries need to assess ... the impacts of [economic] policies on ... food security.... The major thrust of food security ... is to ... increase ... agricultural production in a sustainable way and to achieve a substantial improvement in people's entitlement to adequate food."

Habitat Agenda

Para. 116 of the Habitat Agenda states, "Governments ensure food security, giving priority to the needs and rights of women and children, who often bear the greatest burden of poverty....."

A further recommitment to the right to adequate food came in 1966 from the United Nations Committee on Economic, Social and Cultural Rights. An authoritative statement, General Com

ment 12 also seeks to clarify the substance of the right to adequate food, stating that the right is realised “when every man, woman and child alone or in community with others (has) physical and economic access at all times to adequate food or means of its procurements”¹³.

REGIONAL INSTRUMENTS

There are some regional documents which protect the right to food, directly or indirectly. They are:

1. European Social Charter, 1961.
2. The Additional Protocol to the American Convention of Human Rights (Protocol of San Salvador), 1988
3. The African Charter on Human and Peoples’ Rights, 1981

DOMESTIC INSTRUMENTS

More than 40 States have recognised food right in their constitution (14). The constitutions of the Congo (Art. 34), Ecuador (Art. 19), Haiti (Art. 22), Nicaragua (Art. 63), South Africa (Art. 27), Uganda (Art. 14) and Ukraine (Art. 48) recognize explicitly the right to adequate food as set out in ICESCR. The constitutions of Bangladesh (Art. 15), Ethiopia (Art. 90), Guatemala (Art. 99), India (Art. 47), the Islamic Republic of Iran (Arts. 3 & 43) Malawi (Art. 13), Nigeria (Art. 16), Pakistan (Art. 38), Seychelles (Preamble) and Sri Lanka (Art. 27) set the achievement of these goals as responsibilities of the state, while the constitutions of Brazil (Art. 227), Guatemala (Art. 51), Paraguay (Art. 53) Peru (Art. 6) and South Africa (Art. 28), recognize the right of children to adequate food and nutrition.

So, regarding all the international & regional conventions, agreements, declarations and constitution of different countries we can conclude saying that the right to food is very widely recognised and right to food is a very important human right which must be implemented by the states & international institutions.

RIGHT TO FOOD:

What does it mean?

It is now well settled that right to food is a universally recognized legal human right. But the actual meaning of food right should come within a definite framework.

The report of the Special Rapporteur of the Commission on Human Rights of United Nations (10 January, 2002) defined the right to food as “right to have regular, permanent and free access, either directly or by means of financial purchases, to – quantitatively and qualitatively adequate and sufficient food corresponding to the cultural – traditions of the people to which the consumer belongs and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.”¹⁴ (Ziegler 2002)

General Comment 12 of United Nations Committee on Economic, Social and Cultural Rights seeks to clarify the substance of the right to adequate food, stating that the right is realized “when every man, woman and child alone or in community with others (has) physical and economic access, at all times, to adequate food or the means of its procurement”. This implies also the availability of food in a quantity and of a quality sufficient to satisfy the dietary needs of the individuals, free from adverse substances and acceptable within a given culture. Also the accessibility of such food should be in ways that are sustainable and that do not interfere with the enjoyment of other human rights.

The human right to adequate food includes:

- a. The human right to be free from hunger.
- b. The human right to access to safe drinking water.
- c. The human right to access to resources, including energy for cooking.
- d. The human right to the highest attainable standard of physical and mental health¹⁵.

Ensuring the right to food involves many factors, including inter alia :

- Sufficient opportunities for earning
- Access to land, water and financial assets;
- Efficient fair market system complemented by social safety
- Food safety and consumer protection.

Theoretical Basis of the right to food:

Though there are many agreements, declarations and conventions on economic, social and cultural rights (ESC rights), no agreement is on core elements of rights to food and its implementation has some dependency on resources. So, its validity is questioned. Some states are even reluctant to recognize ESC rights as rights, rather they treat them as welfare policies or aspirations. Theoretical approaches are advanced for providing these rights a strong legal basis. Generally, theoretical basis of ESC rights is premised upon two interrelated but separate expositions:¹⁶(Faruque 2001)

Basic Need Approach: ESC rights encompass most of what would be severally described as basic needs (food, shelter, education, health) without which human being can not exist as human being. Basic needs of all the members of the society should be fulfilled at least at the minimum level and these should be met by the state under legal framework. Each and every human being should be provided basic needs which state shall respect, promote and fulfill as rights.

Capability Approach: Fulfillment of ESC rights is related to capability of human being to achieve other social goals. Amartya Sen, eminent economist, is the main proponent of capability approach to ESC rights. Enjoyment of ESC rights, especially food rights, facilitates people to achieve their dignity and self esteem, and empower them in the political process. Conversely,

denial of ESC rights may curtail substantially the freedom of a person to achieve social goals. Capability approach focuses on instrumental value of ESC rights e.g. they have value as instrument to increase human capabilities and to enhance the quality of life.

Interdependency between food rights and other human rights:

It is now a truism that dichotomy between civil, political rights and economic, social and cultural rights is merely based on different implementing system, not on any hierarchy or the basis of priorities among rights.¹⁷ (Faruque 2001) Universal Declaration of Human Rights declares “The enjoyment of civil and political rights and that of economic, social and cultural rights are interdependent” and that ‘in cases where the individual is deprived of economic, social and cultural rights, he does not represent the human person’. The Final Declaration of the World Conference on Human Rights in Vienna (1993) also provides, “All human rights must be treated by the international community globally in fair and equal manner, on the same footing and with the same emphasis”. The word “all” refers to the whole of civil and political rights as well as economic, social and cultural rights.

So, the civil, political, cultural, economic, and social rights are interdependent, interrelated, indivisible and equally important. To be able to enjoy the right to food fully, people need access to health care and education, respect for their cultural values, the right to own property and the rights to organize themselves economically and politically.

Without adequate food people fall in hunger. Hunger dulls intellects and thwarts productivity. For poor families in developing countries, hunger-related illness adds to household costs and increases the burden of care for healthy family members who often struggle for subsistence. When this hardship is multiplied by millions of families world wide, it creates a devastating ripple effect that imperils global development.

The following human rights are indispensable if the right to food is not fully realized:

- a. The human right to work and receive wages that contribute to an adequate standard of living.
- b. The human right to a safe and healthy environment.
- c. The human right to freedom from discrimination based on sex, race, or any other states.
- d. The human right to equality between men and women.
- e. The human right of the child to an environment appropriate for physical and mental development.
- f. The human right to education and access to information.
- g. The human right to social security.
- h. The human right to development.
- i. The human right to peace.
- j. The human right to enjoy the benefits of scientific progress.

Obligation of the state to implement food right:

Since 1920 more than 120 international declarations, conventions and resolutions have addressed various issues related to the right to food¹⁸. (Anderson et al. 1995) The concept of the right to food has been formally recognized since the adoption of the United Nations Universal Declaration, regarding the human rights provisions, in the authoritative interpretation of the Charter of United Nations which have binding force for the states parties. Almost all the countries in the world are parties to these two documents. The provisions of these documents have acquired the status of international customs & hence acquired normative value. So, countries parties to the documents are obliged to fulfill its duty to implement right to food.

International Covenant on Economic, Social and Cultural Rights, 1966 (effected in 1976) is a legally binding agreement for the states parties which has been ratified by 145 countries¹⁹. This covenant clarified different types of obligations of the state parties. The key provisions are articles 11 and 2 which deal with the state obligation.

Article 11 of the covenant affirms that “the state parties to the present covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food.” The same article states - The State Parties to the present- Covenant, recognizing the fundamental right of every one to be free from hunger, shall take, individually and through international cooperation, the measures including specific programmes, which are needed –

- a. To improve methods of production, conservation and distribution of food by making full use of – technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian system in such a way as to achieve the most efficient development and utilization of natural resource.
- b. Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to the need.

This commitment was renewed by the world leaders in 1996 in the context of Commitment 7.4 of the World Food Summit (WFS) Plan of Action, in which governments announced that they would make every effort to implement the provisions of ICESCR Article 11.

Under ICESCR Article 2, state parties undertake to take steps “to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures”. This provision is made for the realization of all the Economic, Social and Cultural (ESC) rights. Here, the phrase “all appropriate means” also includes, but is not limited to, administrative, financial, educational and social measures. According to article 6(2), technical and vocational guidance, training programmes, policies and techniques should also be undertaken by the state parties as a means of realization. The Covenant contains four layers of state

obligations : Obligation to respect – requires refraining from interfering with the enjoyment of rights; obligation to protect – requires the prevention of violations of such rights; obligation to promote- requires raising public awareness on the rights; obligation to fulfill – requires state to take appropriate measure towards the full realization of the rights.

The Committee on ESC rights, established in 1987, has developed a seven-step method for monitoring progressive realization of ESC rights by states parties, in its third session in 1989. In 1999 the Committee on ESC rights, in General Comment-12 identifies three types of obligations emanating from the International Covenant. That is, like other economic and social rights, the right to adequate food confers an obligation over states to respect and protect, and fulfillment of that right. Obligations can be divided further into obligations of result and obligations of conduct, the latter being the focus of legislative action. This basic analysis already provides some guidance as to the types of action that a state may take through national legislation.

Scope of legislative reviews:

Legislative and institutional measures are essential components in constructing the enabling environment in which rights can be realized.

The specific areas in which corrective legislative action is needed should then be identified. These areas may include land tenure, access to water, credit, rural markets, food production and food quality, as well as the institutional and legislative framework in which the right to adequate food is to be realized.

In addition, national legislation can also establish the framework within which the review and practical measures take place by establishing general principles for the implementation of the right to adequate food; setting targets and deadlines; and establishing the institutional framework for policy- making and the monitoring of progress.

Implementation of food right by the courts:

In many countries right to food is a constitutionally guaranteed right. Also in South Africa it is a constitutionally guaranteed right. In a landmark case- *Government of the Republic of South Africa V. Irene Grootboom and other*, the court ruled that the Government had violated the constitution by not making 'reasonable' provision for persons in desperate need. (That case concerned- housing, but the right to food enjoys a similar constitutional protection – so the finding is considered relevant).

Similarly, the Supreme Court of India in the **People's Union case**²⁰ issued a series of interim orders that forced public corporations and state governments to accept responsibility for malnutrition. In 2001, the People's Union for Civil Liberties (PUCL) filed a landmark public interest petition before the Supreme Court of India against the Government of India, the Food Corporation of India (FCI), and six State Governments with the allegations of inadequate drought relief

in Rajasthan and Orissa. The case was later extended to the larger issue of chronic hunger, with all states and union territories as respondents. The court accepting the interpretations of the right to life clause of the Indian constitution given in earlier court decisions, issued a series of interim orders, and appointed two commissioners to ensure their implementation. For example, the court ordered on November 28, 2001 that: "We direct the State Governments/Union Territories to implement the Mid-Day Meal Scheme by providing every child in every Government and Government assisted Primary Schools with a prepared mid-day meal with minimum content of 300 calories and 8-12 grams of protein each day of school for a minimum of 200 days."²¹ The court also gave specific directions pertaining to eight food-related schemes and required the involvement of Gram Panchayat in their implementation.

The court also held that the lack of funds cannot be an excuse -- an excuse frequently used by governments -- for not providing adequate support to people affected by disasters.

Article 32 of the Bangladesh Constitution states: "No person shall be deprived of life or personal liberty save in accordance with law". Thus, the right to life is a fundamental right which can not be abridged even by legislative actions and it is enforceable in court. In the landmark case –

*Dr. Mohiuddin Farooque Vs. Bangladesh*²² the High Court Division held that right to life includes "means of livelihood, enjoyment of pollution – free water and air, bare necessities of life....." Thus, it is clear that the right to food is recognized as a fundamental right by our court.

Roadblocks to enforce the right to food

Though right to food is universally recognized by almost all the nations in the world, it is not being fully implemented because of some roadblocks in the way to implement. They may be –

1. In the context of international covenants and declarations, human rights are not legal rights, but general standards that must be set out in legal norms before they become enforceable. The United Nations in adopting the Universal Declaration of Human Rights of 1948, had expected human rights to go through a legal-clarification process to become part of national as well as international legal system. This process has occurred to some extent for political and civil rights, but not for economic, social and cultural rights, the latter, including the right to food, have been treated as aspirational rights or goals, which should be achieved through economic development.

The Geneva Conventions of 1949 and their protocols of 1977 provide a legal basis for safeguarding the right to food of prisoners and civilians during war, but the same right is not safeguarded during times of peace.

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

cedure for countries to report their progress on human rights to a Working Group of Government Experts, replaced in 1987 by the committee on ESC Rights. The working group was not able, however, to efficiently monitor states progress because of the vagueness of the rights and of state obligations, as well as insufficient guidance to signatories on reporting²³.

3. Countries have offered various justifications for not enacting the right to food as a legal right.

4. Special Rapporteur, Commission on Human Rights, United Nations, stated that there are “profound internal contradictions” in the UN system, noting that, on the one hand, UN agencies emphasize social justice and human rights and, on the other, the Bretton Woods institutions, along with the World Trade Organization, oppose the right to food in their practice.

On the way to achieve full realization of the right to food

While recognizing that means of implementing the right to food at the national level inevitably vary from one State party to another, the Committee considers that States parties should develop a national strategy to ensure food and nutrition security for all, based on human rights principles. At the international level, States are required to recognize the essential role of international cooperation and to comply with their commitment to take joint and separate action to achieve the full realization of the right to food.

The Special Rapporteur on the right to food:

In 2000, the Commission on Human Rights appointed Mr. Jean Ziegler (Switzerland) as its first special Rapporteur on the right to food²⁴. He has since submitted two reports²⁵ and one mission report to the Commission on Human Rights and one preliminary report to the General Assembly²⁶. In his reports, the Special Rapporteur has focused on the following priority issues for implementation of the right to adequate food:

Water as a human right: The special Rapporteur stressed that the term “food” covers not only solid foods but also the nutritional aspects of drinking water. The Special Rapporteur stated that, as a component of the right to food, access to safe, clean drinking water and basic irrigation water must be protected through international cooperation.

Justifiability: The Special Rapporteur considered that justifiability is essential for the implementation of the right to food to seek a remedy and accountability if their right to food is violated. He analysed the reasons, why, historically, economic, social and cultural rights have not been considered justifiable and provides examples to show that today the right to food is indeed justifiable and can be adjudicated by a court of law.

Right to food in international humanitarian law: In his analysis, the Special Rapporteur refers

to the fact that the right to food applies both in peacetime and during armed conflict. During armed conflict the protection afforded by human rights law is supplemented by international humanitarian law. The Special Rapporteur noted that despite important developments in respect of enforcement mechanisms, including in particular the recent establishment of the International Criminal Court (ICC), violations of the right to food during armed conflicts still occur. He calls on the international community to renew its efforts to ensure compliance with the rules and principles of international humanitarian law.

Right to food and international trade: The Special Rapporteur has urged the international community to review international trade obligations so as to ensure that they do not conflict with the right to food and food security.

The draft optional protocol to the International Covenant on Economic, Social and Cultural Rights.

In 1997, the Committee on Economic, Social and Cultural Rights submitted a draft optional protocol to the Covenant to the Commission on Human Rights. The draft protocol would enable individual complaints to be considered. This would contribute to the better definition of economic, social and cultural rights and would also reinforce compliance with the Covenant²⁷. Office of the high Commissioner for Human Rights (OFCHR) organized in February 2001 a Workshop on the justifiability of economic, social and Cultural rights, with particular reference to the draft optional protocol to the Covenant. The Workshop concluded, inter alia, that economic social and cultural rights are justiciable not only in theory but also in practice and pointed to recent case law at the international and national levels.

Developments at the national level:

Some twenty countries have adopted constitutions that, more or less explicitly, refer to the right to food or a related norm²⁸. However, only a few have developed and implemented a framework law on the right to food or national legislation and policies to ensure its enjoyment.

Countries such as Brazil, Mali, Nepal, South Africa, Senegal and Uganda have started a dialogue on ways of operationalizing the right to food at the national level. Norway leads the field in terms of comprehensive action. In 1999 it approved a Human Rights Act²⁹ under which the main human rights instruments, including the International Covenant of Economic, Social and Cultural Rights, enjoy the force of law in Norway.

Developments at the international level

In the World Food Summit Plan of Action, Heads of State and Government committed themselves to cooperate with United Nations organizations, and the public and private sectors on programmes directed towards the achievement of food security for all.

The international development summits and conferences held since the World Food Summit have reaffirmed the international communities to achieve global rights and goals. These commitments were reaffirmed at the Millennium Summit³⁰ and encapsulated in the eight Millennium Development Goals (MDGs), which represent a new global agenda for development. The first goal reaffirms the international community's commitment to reduce the number of people suffering from hunger to half of its 1996 level by 2015.

Today, some 145 countries have ratified the International Covenant on Economic, Social and Cultural Rights and each year the Committee monitors progress towards the realization of these rights, including the right to food, in approximately 12 countries. Significantly, in recent years it has also begun to monitor legislation and policies adopted by developed countries, states parties to the Covenant, to cooperate with developing countries for the full realization of economic, social and cultural rights, including the right to food.

Regional Development on the Right to Food:

The African Commission on Human and Peoples' Rights has also focussed on the issue of the right to food, even though the African Charter on Human and Peoples' Rights does not explicitly mention the right to food. The Commission in *Social and Economic Rights Action Centre and the Centre for Economic and Social Rights (SERAC) vs. Nigeria*, held that the Nigerian Government had violated the right to food of Ogoni communities for destroying their food sources through its security forces and the State oil company by creating significant obstacles to their attempts to feed themselves. The Commission held that the right to food is implicitly recognised in such provisions as the right to life, the right to health and the right to economic, social and cultural development, which are expressly recognised under the Charter. The right to food, according to the Commission, is inseparably linked to the dignity of human beings and is therefore essential for the enjoyment and fulfilment of such other rights as health, education, work and political participation.

Some Recommendations:

So for the full realization of the right to food, we can make the following recommendation:

- The questions of inequality of access to food and water should be immediately addressed to ensure that there is no discrimination on the grounds of ethnicity, gender, religion or otherwise; monitoring structures should be put into place to monitor the progressive realization of improvements in access to food and water for people who are suffering from chronic malnourishment;
- States should take measures to develop national legislation to protect the right to food; every state should develop a national framework law conforming to the need to respect, protect and fulfil the right to food, recognizing its obligations under international human rights and humanitarian law; a review of existing legislation should be made to assess whether it contradicts the state's obligations under the right to adequate food or lacks adequate implementation;

- All states should recognize the justifiability of the right to food, along with other economic, social and cultural rights; enforcement mechanisms should be strengthened at the national level by ensuring that the right to food can be adjudicated by a court of law; effective administrative and judicial remedies and recourse procedures should be implemented for everyone whose right to food is violated or neglected;
- International and regional enforcement mechanisms should be strengthened to improve the implementation of right to food;
- The adoption of the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights should be fully supported;
- An international code of conduct on the right to food—containing voluntary guidelines aimed at achieving food security for all – should be drafted and adopted;
- All states should respect international humanitarian law to protect the right to food in situations of armed conflict;
- The decisive negotiations on agriculture and other issues currently under way at the WTO should take food security into particular account and ensure that trade rules do not conflict with international human rights law; international trade obligations should be reviewed to ensure that they do not conflict with the right to food;

MONGA IN THE NORTHERN DISTRICT OF BANGLADESH:

What is 'Monga'?

The term 'Monga' is originated from the word 'Ma-anga' which means 'high price of goods'. This word is used in the northern districts of Bangladesh, Chittagong, Noakhali and some other regions. But now 'Monga' has taken its meaning which is a little bit different from its original meaning. Now, Monga means a situation where people have no ability to buy goods. It indicates that people have no work, and so no money and as a result they can not buy their food and other necessary things.

Monga is a famine-like situation that prevails in six to eight northern districts of the country. It occurs in the pre-winter months due to agricultural lean period. Monga is a seasonal scarcity of employment and hence house-hold incomes leading to lack of access to food amongst mainly rural poor landless families. The greater Rangpur and Dinajpur areas are in the grip of this famine-like situation with millions of poor and landless people starving due to lack of jobs and a severe scarcity of food. 'Monga' is not itself the cause of the problems, but the word is used to describe the impact at household level of a combination of factors such as the reduction in day labour opportunities after the rice crop is shown and before the harvest, seasonal higher prices of basic food commodities & the after-effect of monsoon flooding.

Truly speaking, *monga* is an economic situation of our country. It is the patent manifestation of the prolonged state of poverty that has been continuing in the northern region of our country for generations. Though *monga* is identified as the seasonal job scarcity situation during the Bengali month of Aswin and Kartik where farm-labours temporarily get out of work in this agro-based northern region, actually it cannot be confined to this seasonal scarcity of employment only. According to the field visit report³¹, the purchasing capacity of the poor people of the region was found always to be below the market price of the essential commodities. In this sense, the *monga* situation in the northern region of the country prevails throughout the year. It is only that the situation aggravates during the month of Aswin and Kartik and takes a 'near-famine' form if preceded by natural calamities such as devastating flood, severe river erosion etc.

When 'Monga' occurs:

Monga, the famine like situation, is a recurrent phenomenon in the country, particularly the Greater Rangpur and Dinajpur areas. Every year after plantation of the Aman paddy is completed, the poor section of the people who mainly depend on agricultural activities, go jobless till the Aman paddy is harvested in the month of November (Agrahyan, in Bangladesh). Generally, Monga happens in September to November (Aswin and Karlik). But it may happen in July or in any time after flood. In actual sense, 'Monga' is an economic situation. It may happen in any country at any time³². (Chowdhury 2004) In the year 2004 the series of major flood episodes from July to October have exacerbated the impact of 'Monga'.

The authors visited some areas of Kurigram district and interviewed the affected people and some journalists of Kurigram and talked to some NGOs working in Kurigram. After analysing the facts it was found that there are two kinds of Monga in Kurigram : one is seasonal, which normally occurs in the months of September – November (Aswin- Kartick) and may be in July or at any time after the flood and another is for all the year long. In seasonal monga (Aswin – Kartik), the situation becomes very severe. People can get meal one or in rare case, at best two times in a day or even remain hungry for whole day. In other months of the year, they do not get three times meals in a day. They do not have regular access to labour all the days & they can not save money for the next day because of the low rate of labour. All the year round they get very less amount of calories with very less protein, less fat and less minerals.

Monga affected areas :

Severe joblessness and food crunch twinned with sky rocketing prices of essentials during the 'monga' (famine-like) period have threatened the lives of about seven million people in eight northern districts of Bangladesh. Of the eight districts, Kurigram, Gaibandha, Rangpur and Nilphamari have been hit the hardest by 'monga', admitted sources at the Rajshahi Divisional Commissioner's office³³. (Ali 2003) The other monga- stricken districts are Lalmonirhat, Dinajpur, Panchagrah and Tankurgaon.

Impacts of 'Monga'

More than 29 lac people are affected by 'Monga' – 8 lac in Kurigram, 3.5 lac in Rangpur, 2.5 lacs in Nilphamari, 3 lac in Lalmonirhat, 8 lac in Gaibandha & 4 lac of people in other districts³⁴. About 40 percent of the total population of the districts of Rangpur, Dinajpur, Kurigram, Nilphamari, Lalmonirhat, Panchagar, Gaibandha and Thakurgaon are struggling hard to manage even one full meal a day for themselves. Many of them are being forced to eat the roots and leaves of plants and other kinds of inedible stuff. Communities on the banks of the rivers Dharla, Teesta and Brahmaputra and their adjacent villagers are worst hit by the famine-like situation. Monga is marked with absence of any work for earning income by the people, crisis of food owing to their having no purchasing power, thousands of families of zero income go destitute and literally live off whatever they can scrape of their surroundings. The situation resembles a silent famine that is accompanied by diarrhoea. The immediate impact of the 'Monga' is on employment rates, then on household incomes, then on their food security and finally on their nutrition levels.

Report from the Special DER Meeting on 'Monga' 2004:³⁵

Following are the effects of 'Monga' on households :

- a. Reduction in the size and number of meals prepared and consumed each day;
- b. Recourse to the consumption of uncultivated foods from wild sources ;
- c. Very low wage rates for day – labour (Tk. 30/days);
- d. Advance sale of labour (at a discount on the prevailing market rate);
- e. Sale of fixed and moveable household assets, such as some land, livestock, jewellery, furniture, even pots and pans ;
- f. Migration (especially of men) to other, less affected rural areas, or to major cities ;
- g. Taking advantage of repayment holidays on existing loans ; and
- h. Contracting new loans from micro-credit providers if possible, otherwise from village money lenders at extremely high interest rates.

Report of CPD³⁶

CPD field work state that, for their survival, monga affected people tried to cope with the situation in the following ways:

- Selling of labour in advance with lower wages at Tk. 20-25 per day with food or Tk. 35-40 per day without food. This may be compared against the potential wage rate of Tk. 35-40 with food and Tk. 55-60 without food during crop harvest and planting season.
- Selling of crops (paddy) in advance at a lower price Tk. 150-200 per mound of paddy against a potential price of Tk. 300-350 per mound after harvesting.
- Informal loan obtained from money lender. An amount of Tk. 100 obtained in Aswin – Kartik has to be paid with 50 per cent interest after 2-3 months.
- Temporary migration in search of work in other districts like Comilla, Kishoreganj, Chittagong.
- Eating of "banana thors", "Kachu-gheches" which are not naturally eaten ever by the poor people during the normal period.

So, from different reports of some organisations, newspapers & journals and after analysing the facts of the field visit in Kurigram, the impact of 'monga' can be described in the following heads :

People remain hungry:

About half of the total population of northern 'monga' affected districts do not have any job to do in the months of Aswin-Kartik. So, at that time they have no ability to buy food and bare necessities. As a result they have no way to escape from hunger.

Eating unhealthy foods & falls in diseases:

Losing the ability to buy food, the monga affected people have been compelled to take recourse to the consumption of uncultivated food from wild sources. People in these areas are eating anything available to meet their hunger. They are taking inedible stuff like wild greens, slender creeper, leaves, arum greens & its rooted, maize, wheat-bran, broken bits of rice, 'banana thors', 'Kachu-ghechu' etc. These foods are not healthy and some are very unhealthy and poisonous. This causes many diseases, particularly diarrhoea. And for malnutrition, their body can not prevent any kind of normal diseases.

Death for hunger and diseases:

Malnutrition is a silent killer. The immune system of the malnourished persons does not develop fully, function efficiently, and they easily die of diseases like diarrhoea, which is not generally viewed as a killer disease.

Absence of other basic needs:

The people of 'monga' affected areas can not think to provide themselves other bare necessities, like clothing, medicine, housing and education when they can not get three times food a day only to survive.

People give labour at very low wage rate:

In the time of 'monga' there is no work or very few work in northern districts & people do not have money in their hands. So, demand to get job becomes very high. As a result, amount of wages for day-labour comes down to a very low rate: Tk. 30/40 per day which is normally Tk. 50/60 at other times.

Advance sale of labour:

Monga, a near – famine situation which hits the northern districts every year, has forced poor people to sell their labour in advance to some solvent and rich people in the locality at an unusually low rate to keep their families from starvation. The rate is Tk. 20/30 per day with food or Tk. 40/50 per day without food.

Sale of immovable & moveable household assets:

As there is no work, no money for buying foods and so people are compelled to sell their household moveable assets, such as, livestock, jewellery, furniture, pots and pans or sometimes land to keep them alive.

People migrate to other cities:

Severe joblessness and food crunch twinned with sky rocketing prices of essentials during the 'monga' period have forced the affected people to migrate temporarily and in sometimes permanently, to Dhaka, Chittagong and other big cities.

Taking loans at very high interests:

When there is no money and no way to get money or food, people takes loans from village money lenders at extremely high interest rates. In the field visit in Kurigram, after interviewing some affected people, it was found that the interest of loan is 20% per month, that means if a person takes Tk. 100, he has to give Tk 240 with interest after one year.

Selling crops in advance at low price:

Many people sell their meagre produce of aman crops well before harvesting to tide over the acute shortage of employment and food. They sell the crops (paddy) in advance at a lower price –Tk. 150–200 per mound of paddy against a potential price of Tk. 300-350 per mound after harvesting³⁷. The same people will have to buy this paddy by more than Tk. 400 in other seasons.

Impact on Children :

Nearly 50 percent of our children below the age of 5 suffer from malnutrition which is among the highest in the world.³⁸ The most affected sector of monga is the children. The mothers of the children are malnourished, so their new born children are under- weighted, unhealthy and weak.

Causes of Monga

Different factors are responsible for the occurrence of 'monga' in the northern districts of Bangladesh. We found many reasons for monga from the field visit in Kurigram, the reports of organisations working on the issue of monga, the reports of newspapers and from speeches of many persons who are well known about 'monga'.

The causing factors may be :-

Shortage of Food:

Many people argue that food availability is one of main factors for the creation of 'monga'. We will now discuss the matter.

Monga is not a new thing in Bangladesh. It is believed that 'monga' is happening for last 30 years. But the history of 'monga' in the northern districts is more old one. 'Monga' is termed as

'pocket-famine' or 'near-famine' situation. Famine is a state of extreme starvation suffered by the population of an area due to scarce food supply³⁹. A number intense famines have visited the land now known as Bangladesh in three hundred years for example – the famine of 1770, the famine of 1866, the famine of 1896-98, the Great Bengal Famine of 1943 & the famine of 1974.

The possibility contrary nature of the availability view and the entitlement view can be illustrated by considering the food availability picture during the Bangladesh famine of 1974.

Table 1. Bangladesh famine 1974: overall availability of food grains.

Year	Per head availability (oz./day)	Index
1967	15.0	100
1968	15.7	105
1969	16.6	111
1970	17.1	114
1971	14.9	99
1972	15.3	102
1973	15.3	102
1974	15.9	106 (Famine)
1975	14.9	99
1976	14.8	99

Source : Jean Dreze and Amartya Sen, *Hunger and Public Action*, Page 27, Table 2.1, Oxford India Paperbacks 1993

In Table 1, the availability of food per head (including food production and net imports) for the Bangladesh population as a whole is given for ten years during 1967-76. Treating the availability in 1976 as the base of the index (100), the availability in 1974 – the year of the famine was 106. In fact, the availability of food that year was higher than in any other year during 1971-6. And yet the famine hit Bangladesh exactly in that year of peak food availability! The families of rural labourers and other occupation groups who died because of their inability to command food were affected by a variety of influences (including loss of employment, the rise in food prices, etc.), and this occurred despite the fact that the actual availability of food in the economy of Bangladesh was at a peak⁴⁰. Dreze and Sen 1993)

The failure of the availability view of famine can be further brought out by comparing different districts of Bangladesh in terms of their food availability in 1974 vis-a-vis their experience of famine.

District	Rank of famine intensity among 19 districts (a)	Rank of per-head food availability among 19 districts (b)	Rank of per cent change in food available per head vis-a-vis pervious year among 19 districts (c)
Rangpur	1 (17%)	5 (126)	6 (up 10%)
Mymensingh	2 (12%)	2 (143)	5 (up 11%)
Dinajpur	3 (9%)	1 (158)	1 (up 23%)
Sylhet	4 (8%)	3 (139)	12 (up 3%)

Table 2⁴¹ : The Bangladesh famine 1974: famine districts vis-a-vis other districts.

- a. Based on the share of the total population in the district seeking relief (shares given in brackets)
- b. ndex values vis-a-vis Bangladesh average in bracket.
- c. Proportionate change in brackets.

In Table 2, the so-called 'famine districts', which were most affected by the famine, are compared with other districts in terms of food availability. It turns out that that among the nineteen districts of Bangladesh, one of the famine districts (Dinajpur) had the highest availability of food in the entire country, and indeed all four of the famine districts were among the top five in terms of food availability per head⁴². Even in terms of change in food availability per head over the preceding year, all the famine districts without exception had substantial increase, and three of the four were among the top six in terms of food availability increase among all the nineteen districts⁴³.

So, availability of food was not the factor of causing 1974 famine. The main factor was entitlement failure. Some people say that food availability in one of the main factor for causing 'monga'⁴⁴. According to the data obtained from the BBS, total food grain (rice and wheat) production in greater Rangpur region in FY 03 was 11.62 percent less than that of FY 01 and total food grain production in FY 03 was 5.87 percent less than that of FY 01. But the Food Ministry's Database on Food Situation Bangladesh 2004 reveals that in 2003-2004, rice production stood at 261.90 lakh metric tons which means an increase of 11.05 lakh metric tons compared with 2000-2001 production. But 'monga' was severe in the year 2004.

So, we can say that food production or food availability is not the main factor for the creation of 'monga'.

Natural Causes:

Another most important factor of causing 'monga' is natural or geographical matter. In the field visit in Kurigram districts, it was found that there are about 15 rivers flowed through Kurigram. Brahmaputra, one of the biggest rivers of Bangladesh, entered into Bangladesh through Kurigram district. So, the high flow of water in the rainy season (in July) first hits this district. The

other big rivers in Kurigram are Tista, Dharala & Dhud Kumar. Flood by the heavy flow of water or by heavy rainfall is a common incident of every year in Kurigram. This flow of water makes river erosion every year. The heavy flow of water, every year, has been breaking the banks of the river and alluvial land (island). This has been making many people landless for many years. By this way, number of landless people is increasing day by day. These landless people are being badly affected by the 'monga'. Another factor for 'monga' is flood. Flood is a common incident of every year in Kurigram. This flood damages the crops in the field. Besides, flood water affects the opportunity of work of the daily labours because of having water in the field. So, we can say that there are many natural factors for causing 'monga' in the northern districts.

No Work in Aswin-Kartik:

Another important factor which is very much felt and viewed is that there is no work at the time of Bengali months Aswin-Kartik (September-November). Most of the affected people are day-labourer cultivators. They grow paddy on others' land for wage. In the time of Bengali months Shraban-Vadra (July-August), they grow 'Aman' paddy in the field. In the time of plants growing in Aswin-Kartik (September-November), they have no work in those fields. The harvesting season will again start from Agrahayan (December) & then they will be again in work. In the time of Aswin-Kartik (September-November) they have no work in the field or anywhere. So, there is no income and as a result they are to starve in those months. So, the very visible reason behind 'monga' is joblessness in the time of Aswin-Kartik (September-November).

Non- Industrialisation, non-diversification of crops and non-diversification of employment:

The other reasons are non-industrialisation, non-diversification of crops and employment. If any crop could be harvested in the time of Aswin-Kartik, people would not be jobless then. Non-diversification of employment is also important. Most of the people are engaged in cultivation. If there was any work which can be done in Aswin-Kartik or on part time basis in whole the year round, there would be no non-employment. Non-industrialisation is also related with this. If many people were engaged with the job in the industries, like other cities, dependency on cultivation would lessen and people would not have to think for Aswin-Kartik.

Corruption and Nepotism in relief activities:

In the field visit in Kurigram, many people complained that they did not get the government help. They also complained about the nepotism of the local representatives (Chairman-members).

High prices of goods and low rate of labour

High prices of goods and low rate of labour are also important factors for causing 'monga'. The price of rice is increasing day by day. If a person earns Tk. 40 in a day & if he buys two kgs. of rice for his family, then how can he buy other necessary things? He cannot buy even salt or oil. So, 'monga' does not leave him.

Government's Reluctance

The government is reluctant to treat the problem of 'monga' as national problem and to take special plan and programme to eradicate 'monga'. The communication system was not good with Dhaka for many years (before Jamuna Bridge). This is the main reason for not developing the industrial sector. Moreover, some supportings of development of industry have been neglected such as chilmari sea port and sonaghat land port in Kurigram, etc. are inactive for many years. Government also did not take any effective step for controlling flood and river erosion.

Infertile Sandy Lands:

Many lands in the river basin have been infertile by depositing sand from the river water. This sand makes the land infertile which hampers the production.

Other causing factors of monga are:

1. Landlessness of people
2. Lack of good communication system with the remote areas.
3. Lack of good research in the monga affected area.
4. Non-scope of work in Vulnerable Group Feeding (VGF) and Test Relief (TR) programme at the time of 'monga' because of having crops or water in the land on that period.
5. Mentality of the people to stay in the affected areas and reluctance of migration to other good areas.

How to overcome 'Monga'

We have already known about the causing factors of 'monga'. So, by eradicating those factors or solving those problems we can solve the problem of 'monga'. The government is the main responsible to take the initiatives. The NGOs, civil society, bank and the media can also play important role to prevent 'monga'. We have to take different types of programmes. Some programmes are needed immediately and some programmes will take more time to be fulfilled. So, programmes should be set on short, medium and long term basis.

Short-term programmes:

Some programmes can be taken easily and within very short time. These programmes will not permanently solve the problem but these will save their lives. Eminent lawyer Dr. Kamal Hossain said "The people should be saved first". The short term programmes may be as follows :

Adequate Relief Programmes :

Different types of relief programmes, such as, Vulnerable Group Feeding (VGF), Vulnerable Group Development (VGD), Gracious Rice (GR), Food for Work (Kabikha), Test Relief (TR), House Repairing Aid, etc. can mitigate the problem and save the lives of 'monga' affected people.

Famine prevention is primarily concerned with the protection of food entitlements where they are in danger of collapsing. This strategy is popularly known as 'direct delivery'. But it is not always the most effective approach to the protection of entitlement and, in fact, it has played at best a secondary role in some of the most effective famine prevention systems in the world⁴⁵.

Loan Programmes

Our rural agricultural banking system is not so much effective in eradicating poverty through their loan-programmes. Since in most cases, banks provide collateral-based loans, most of the poor people cannot afford it. Therefore, it seems necessary to revitalise the rural banking system, so that they can help rural poor people to come out of the poverty confine. For this, they need to come forward with innovative collateral-free loans or participatory-basis loan programmes. Here, participatory-basis loans mean banks will actively participate in the invested business and bank staffs will monitor the production. After final production profit and loss will be shared between the bank (lender) and farmer (recipient) according to the contract and at the same time bank will collect its loan.

"Buy labour, sell loans" – this can be a strategy of financial institutions and NGOs. These institutions can take special development programmes in this area so that they can buy surplus labour for their special project targeting 'monga' period. They can sell lump-sum loans to buy labour for the period, that is, people will pay back loans by giving labour. In general loan programmes, the NGOs should decrease the interests of their loans.

Suitable job for 'monga' period:

District Commissioner of Kurigram, Mr. Azizar Rahman Mulla, has pointed out an important matter that they can not continue their Food for Work and TR programmes in the months of Aswin-kartik because, at that time, the fields are full of paddy & so, sufficient lands are not available to continue the projects for those programmes. So, the government should find out some projects where no field is needed and the people can do their duties in their houses or house-yards.

Strong monitoring of relief activities:

Allegations have been found about the corruption and nepotism of local members and chairman of Union Parishad in the distribution of VGF cards and other relief activities. So, strong monitoring should be made for proper distribution of relief and accountability of them should be maintained.

Precautionary measure:

Some precautionary measures such as alerting the people for that situation, motivating them for precautionary saving can be effective.

Free seeds & fertiliser

The 'monga' affected people should be provided seeds and fertilisers free of cost. It will help them to get more profit from crops.

Middle term Programmes:

Some programmes should be taken for preventing 'monga' which will take some time to be effective.

Find out some crops which will be harvested at Aswin-Kartik :

One of the great problems is that 'Aman' paddy will be harvested after the month 'kartik'. People are to remain workless in Aswin & Kartik. So, if there were some crops which will be harvested in Aswin and Kartik, then the farmers will not be jobless in these two months. Eminent economist Benayak Sen opined that if Bangladesh Rice Research Institute can invent a kind of paddy which will be harvested in the month 'Kartik', then it will solve the problem of 'monga'.

Alternative crops:

Most of the people of 'monga' affected northern districts grow paddy. So, at a time, in the 'monga' period, a lot of people become jobless. So, dependency on paddy should be lessened. Besides, because of sands on the land, those lands are less fertile and as a result paddy does not grow well there. Professor Dr. A.Q.M. Mahbub suggested that maize ('Bhutta') & ground-nut (chinabadam) may be the solution for 'monga' affected area⁴⁷. A ground arum 'Kachu' also may be the solution because this crop is harvested in 'Kartik' and it is more beneficial than paddy.

Besides, it is demandable and enriched in quality. Another important plant is hybrid grass. It is also very beneficial and demandable. So, alternative crops can prevent 'monga' to a great extent.

Additional profession: Handicraft

Handicraft may be a professional job in addition to the cultivation. The female member of the family can be trained in different types of handicraft works and they should be given loans for this purpose. Their income will help their families to survive. The male members of the family can also do this job during the period of 'monga' and in leisure period. The NGOs can play important role in this sector.

Long-term Programmes:

Some programmes can change the whole situation of 'monga'. But these programmes are very expensive, and will require much time and well-designed plan. These programmes are largely dependent on the well-wishes of the government. Increasing of production, industrialisation, river-dredging, allotment of lands to the landless people, etc. are those kinds of programmes.

Increase of production:

Food availability is very much important in protecting food entitlement⁴⁸. A great abundance of food usually means cheaper food and lower food prices improve the entitlements of those who are on the demand side of the market-the side to which vulnerable groups typically belong. So,

if there is more production, the food will be cheaper and the vulnerable people's buying power will be increased.

Industrialisation :

The permanent solution of 'monga' can be done by industrialisation. Industrial sector has not been developed in northern districts. One reason was absence of bridge on the river Jamuna. But now Jamuna Bridge has been built. One factor has been removed. But for proper industrialisation, many factors should be developed. The telecommunication and power system should be developed. Establishment of Export Processing Zone can create many employments. The government should encourage the private sector to establish industries in the northern districts by giving some special opportunities & privileges. The labour is cheap in northern districts. So, garments sector can be developed. Other agro-based industries, food processing, poultry, fisheries etc. also can be developed.

River Dredging

As the heavy flow of river water every year was the main factor for making the people landless, so controlling of the flow of river water is the way to prevent river erosion. This can be done by increasing the navigability of the river by dredging.

Giving land to landless people:

Most of the 'monga' affected people are landless. So, the government should allot 'Khas' land to them. By this way, much of their problem will be solved.

Monga and Government's obligations:

Since liberation and possibly before this, the yearly occurrence of monga with varying degree of severity represents failure of the successive governments to develop a long term solution to the problem. Given the local dimensions of the crisis it should have been possible to provide structural as well as programmatic solutions to this problem in all these years. But regrettably, the successive governments failed to provide a durable solution to the problem. The governments' failure violates its commitment to human rights. The failure with respect to right to food can be assessed against the commitment made to legally binding standards both at the national and international levels.

National Obligation:

The preamble of the Constitution of Bangladesh states ["..... it shall be a fundamental aim of the state to realise through a democratic process a socialist society, free from exploitation – a society in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social, will be secured for all citizens."]

Article 7(1) of the Constitution states "All powers in the Republic belong to the people, and their exercise on behalf of the people shall be effected only under, and by the authority of, this

constitution.” Article 11 states, “the Republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed’. Specific provision for the right to food, as one of the fundamental principle of state policy is in Article 15(a) of the Constitution which states that: “it shall be a fundamental responsibility of the state to attain, [...] a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens [...] the provision of the basic necessities of life, including food, clothing, shelter, education and medical care.” Although right to food is not directly justifiable⁴⁹, its inclusion as the fundamental principle of state policy is important because it serves to guide interpretation of fundamental rights, including the right to life protected by Article 32⁵⁰. “Life” within the meaning of article means something more than mere animal existence⁵¹. It includes the right to live consistently with human dignity and decency, right to bare necessities of life such as adequate nutrition, clothing and shelter and all that which gives meaning and content to a man’s life including his tradition culture and heritage. Right to life includes right to livelihood because no person can live without a means of living. It includes a right to protection of health and normal longevity⁵². Thus it is clear that the right to food has been recognised as a fundamental right by our Courts.

The right to drinking water is also protected by Article 15 (a) and 32 (right to life) of the Constitution and by Article 18 (1), which states that: “The State shall regard the raising of nutrition and improvement of the public health as among its primary duties”. The constitution also provides for a wide range of “social rights” that are relevant to the right to food including the right to social security and the right to work.

Considering all the provisions of the Constitution mentioned above, it is clear that the governments were in breach of its constitutional obligations to provide adequate support to the *monga* affected people and as a result people are now suffering.

International Obligation:

Bangladesh has ratified all major human rights instruments relevant to the right to food, although it has made some important reservations. Bangladesh has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 5 October 1998, which is the main instrument protecting the right to food. Bangladesh has also ratified the other instruments relevant to the right to food, including the International Covenant on Civil and Political Rights (article 6), the Conventions on the Right of the Child (article 24 and 27) and the Convention on the Elimination of All Forms of Discrimination against Women (article 12 and 14). By ratifying these international human rights treatise Bangladesh has assumed upon itself the obligation to carry out the obligations as enumerated in the treaties through appropriate constitutional process. But the occurrence of *monga* in the northern region of Bangladesh proves that Bangladesh has failed to discharge its obligations under these treaties especially that of the ICESCR. For example, the UN Committee on Economic, Social and Cultural Rights in its General Comment No.3⁵³ developed ‘a minimum threshold approach’ whereby certain minimum standards

should be achieved by all states, irrespective of their economic situation. The Committee developed this concept mainly to encounter the argument that a lack of resource hinders fulfilment of obligations⁵⁴. The Committee has stated that every state has a minimum core obligation to satisfy minimum essential levels of each right of the Covenant. The Committee has clarified that a State Party 'in which any significant number of individuals is deprived of essential food-stuffs [...] is prima facie, failing to discharge its obligations under the Covenant⁵⁵. The International Commission of Jurists during a conference in 1986 in Limburg in the Netherlands drew up certain principles known as Limburg Principles which aimed at interpreting the nature of state obligations with regard to the ICESCR. According to Limburg Principle No.25⁵⁶, state parties to the Covenant have the obligation "to guarantee respect for the minimum rights of survival for all", which is independent of available resources.

Conclusion

In this article, the authors tried to focus on the concept of 'the right to food' and the problems of implementation of the right to food both at the national and international levels referring to the '*monga*' of the northern region of Bangladesh. The *monga* occurring in the northern region of Bangladesh cannot be seen as a regional issue of our country. The issue has to be analysed from the perspective of overall poverty situation that has been prevailing in our country for decades. The Constitution of Bangladesh and the International instruments relating to the right to food clearly imposes an obligation upon the Government of Bangladesh to take immediate and adequate measures to implement the right to food within its territory. The government must come up with a comprehensive approach to measure progression and regression in targets set in Bangladesh's poverty reduction strategy and in broader commitments made at the World Food Summit and in the Millennium Development Goals. This includes monitoring some important commitments with respect to hunger, malnutrition and poverty, including the commitment to eradicate hunger, chronic food insecurity and extreme destitution so as to reduce the number of people living below the poverty line by 50 percent. Therefore, it is expected that the Government of Bangladesh in recognition of this primary responsibility establish a procedure to implement these commitments into its national legislations and come forward with appropriate and effective planning to drive out *monga* from Bangladesh.

¹ Per Pinstrip - Andersen, David Nygaard, and Annu Rattamn (1995). *The Right to Food : Widely Acknowledged and Poorly Protected, 2020 vision Brief 22 June 1995* ; available at www.ifpri.org

² Right to Food, Report of the Special Rapporteur, Mr. Jean Ziegler (E/CN.4/2002/58, 10 January 2002), Commission on Human Rights, United Nations.

³ Shahid, Shaila. A human rights approach to control over food, *The Daily Star*, 12 December, 2004.

⁴ Adopted by the General Assembly on 10 December 1948. UN doc. A/811

⁵ General Assembly Resolution 2200 A (XXI), Annex, of 16 December 1966.

⁶ Fourth World Conference on Women, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995).

⁷ As amended in 1965.

⁸ General Assembly Resolution 44/25, Annex, of 20 November 1989.

⁹ Adopted by the World Food Summit, Rome, 13 to 17 November 1996. FAO 1997. Report of the World Food Summit, Part One. Rome.

¹⁰ Adopted on 16 November 1974 by the World Food Conference convened under General Assembly resolution 3180 (XXVII) of 17 December 1973; and endorsed by General Assembly resolution 3348 (XXIX) of 17 December 1974.

¹¹ The Summit held in the City of Rome from 13-17 November.

¹² The Rio Summit held from 3-14 June, 1992.

¹³ **CESCR, “General Comment No. 12: The Right to Adequate Food” (E/C.12/1999/5).** General Comment 12 was issued by the UN Committee on Economic, Social and Cultural Rights, the treaty body of the International Covenant on Economic, Social and Cultural Rights (ICESCR), in response to a recommendation by the 1996 World Food Summit to clarify the content of the right to food and ways of its implementation. It defines in detail the normative content of the right to adequate food, deals with the State Party obligations and lays down the general criteria for implementing this right.

¹⁴ Right to Food, Report of the Special Rapporteur, Mr. Jean Ziegler (E/CN.4/2002/58, 10 January 2002), Commission on Human Rights, United Nations.

¹⁵ The Human Right to Adequate Food, The People’s Movement for Human Rights Education (PDHRE), available at pdhre@igc.apc.org

¹⁶ Faruque, Abdullah –Al. Realisation of Economic, Social and Cultural Rights: A Survey of Issues, *Human Rights Summer School Manual* (2001) , Edited by Dr. Mizanur Rahman.

¹⁷ Faruque, Abdullah-Al, *ibid*.

¹⁸ Per Pinstруп – Anderson, David Nygaard, and Annu Ratta, *ibid*.

¹⁹ World Food Summit, held on 10-13 June 2002, Food and Agricultural Organization of United Nations.

²⁰ Writ Petition (Civil) No. 196 of 2001 (*People's Union of Civil Liberties v. Union of India and Ors*)

²¹ Order of the Supreme Court of India of 23 July 2001.

²² 48 DLR 438

²³ 'Food: A fundamental human right' FAO United Nations, available at www.fao.org.com

²⁴ In Resolution 2000/10, the Commission on Human Rights defended the Special Rapporteur's mandate as follows:

- (a) To seek, receive and respond to information on all aspects of the realization of the right to food, including the urgent necessary of eradicating hunger,
- (b) To establish cooperation with Governments, intergovernmental organizations (in particular FAO) and non-governmental organizations, on the promotion and effective implementation of the right to food, and to make appropriate recommendations on the realization thereof, taking into consideration the work already done in this field throughout the United Nations system, and
- (c) To identify emerging issues related to the right to food worldwide.

²⁵ "Report of the Special Rapporteur on the right to food" submitted pursuant to Commission of Human Rights resolution 200/10 (E/CN. 4/2001/53). "Report of the Special Rapporteur on the right to food" submitted pursuant to Commission of Human Rights resolution 200/25 (E/CN. 4/2001/58).

²⁶ " Preliminary report of the Special Raporteur of the Commission on Human Rights on the right to food" (A/56/210)

²⁷ It is also stressed that as a matter of fact many elements of various Covenant rights are described with sufficient decision and clarity to be justiciable.

²⁸ One f the most explicit references is in the South African Constitution, which states in section 27: Everyone has the right to have access to (.....) "sufficient food and water"

²⁹ Human Rights Act of 21May 1999, No.30

³⁰ General Assembly resolution 55/2 of 8 September 2000.

³¹ Field visit, done by the authors in February, 2004 in Kurigram, the worst *monga* affected area then.

³² Chowdhury, Manik. Director, Zibika, Kurigram, in his speech delivered in a conference organized by the Daily Prothom Alo at 28 November 2004, published in the Daily Prothom Alo, 25 January, 2005.

³³ Ali, Anwar, Starvation stalk 7m in northern districts, *The Daily Star*, November 05, 2003.

³⁴ See, Report of the Special DER meeting on *Monga* 2004, available at www.lcbangladesh.org

³⁵ *ibid*,

³⁶ Bhattacharya, Debapriya. Early signals on Bangladesh Economy in 2003-2004: Will it avert a “Mid-Term Interlia”? Independent Review of Bangladesh’s Development (IRDB) FY 04 (Second Interim), Centre for Policy Dialogue (CPD)

³⁷ *ibid*

³⁸ Majumder, Dr. Badiul, *ibid*

³⁹ *Banglapedia*, Volume III , pp 47-48

⁴⁰ Dreze, Jean and Sen, Amartya. *Hunger and Public Action*, Oxford India Paperbacks 1993 Page 22

⁴¹ *ibid*, page 28

⁴² *ibid*.

⁴³ *ibid*

⁴⁴ *ibid* note 35

⁴⁵ Dreze, Jean and Sen, Amartya, page-85, *ibid*.

⁴⁶ 25 January, *The Daily Prothom Alo*.

⁴⁷ *ibid*

⁴⁸ Dreze, Jean and Sen, Amartya, page-87, *ibid*.

⁴⁹ Article 44 and 102 of the Bangladesh Constitution.

⁵⁰ Article 8 (2) of the Bangladesh Constitution. Article 32 of the Bangladesh Constitution states that: “ No person shall be deprived of life or personal liberty save in accordance with law”

⁵¹ *Munn v. Illinois*, 94 US 113 (per Field J)

⁵² *Dr. Mohiuddin Farooque v Bangladesh*, 48 DLR 438, *Professor Nurul Islam v Bangladesh*, 52 DLR 413

⁵³ General Comment No. 3 (UN Doc. E/1991/123)

⁵⁴ *ibid*, note 15

⁵⁵ General Comment No. 3, The nature of State Parties obligation, (Article 2, para. 1 of the Covenant, adopted by the UN Committee on Economic, Social and Cultural Rights, at its fifth session 1990, UN Doc. HRI/GEN/ 7? Rev. 3, 15 August 1997, paragraphs 10, page 64

⁵⁶ The Limburg Principle on the Implementation of the International Covenant on Economic, Social and Cultural Rights, (UN Doc. E/CN. 4/1987/17)