

'Economic, Social, and Cultural Rights, are too vague to be important.' Discuss.

PLAN:

Introduction-

- Def of economic, social and cultural rights
- Committee on ESC rights General Comment 3 quote
- Clearly ESC rights are more important because they are harder to achieve
- Will discuss my reasons for this view in this essay

Economic, Social and Cultural Rights-

- Def of human rights
- Explanation of what they are & civil and political rights in comparison
- They are found in one document – International Covenant on Economic, Social and Cultural rights
- Some people of the opinion that they are aspirations and not applicable in our country let alone third world/developing countries where problems are worse

Economic, Social and Cultural Duties-

- General opinion- duties arising from CP rights are clear, ESC duties are not
- 3 types of duties- Henry Shue (2 negative, 1 positive)
- Therefore not necessarily a duty to provide and put the government out of pocket, but to assist and protect (landowner, crops example)
- The European Convention of Human Rights does not mention ESC rights, because it would be imposing duties upon us
- Henry Shue defined basic rights as; 'everyone's minimum demands on the rest of humanity.'
- Libertarianism view- should not impose a duty on the public
- This is sensible, as how far would the Gov. have to go – healthcare – provide expensive experimental treatment? Although if they did not protect us from epidemics to the best of their abilities we would not be happy – part of our right to healthcare? (article 11 of the European Social Charter)
- Possibly there should be a referendum – social justice – how do we solve poverty?
- Taxation imposing a duty to fund ESC rights, first in this country and then potentially abroad – poverty tax?
- Right to water is possible, several millions of pounds, but this could be found

Would economic, social and cultural rights ever be justicable?

- Would it be appropriate to say a right has been violated, if the ability to provide failed
- The negative duties may be justifiable- expects governments to put in structures and systems to prevent and protect rights
- Negative duties only ask them to protect the rights and allow the individuals a chance to aid themselves
- India has made the right to shelter justifiable by making it impossible to force an eviction without notice, this protects their right to shelter

Conclusion-

- ESC rights are currently an aspiration
- Can be fulfilled if people take them seriously
- There are methods and measures that can be adopted to allow for applicable ESC rights
- Even if they are only negative duties being imposed
- Would solve a lot of problems- poverty, homelessness etc.
- Potentially more important than CP rights

Introduction-

Economic, social and cultural rights are rights which are perceived to involve the ownership of something, for example the right to food, the right to water, the right to education, the right to healthcare and the right to shelter. These rights are not included in the Universal Declaration of Human Rights and are not recognised as human rights in the UK; however I do not believe that this means they are too vague to be important. Within general comment three issued by the committee on economic, social and cultural rights, it was stated that; 'the full realisation of economic, social and cultural rights will be progressive.' This suggests that it is hoped that one day these rights will be fulfilled and they will be taken advantage of by everyone, it certainly does not mean that they are too vague to be important. In fact, it almost means that they are more important, because the world's governments and us as individuals will have to work harder to fulfil these rights in comparison to civil and political rights. In this essay I will be looking at the differing arguments on this topic and justifying why I believe that ESC rights are not too vague to be important.

Economic, Social and Cultural Rights-

The term 'human rights' is defined as 'a set of rights regarded as belonging fundamentally to all persons'. In the past sixty to seventy years the importance of human rights has grown dramatically; internationally and in the UK. However this does not include the application of economic, social and cultural rights, which include rights such as; the right to clean water, the right to shelter, the right to education and the right to food. The difference between economic, social and cultural rights and civil and political rights was distinguished by Rob Buitenweg; 'CP rights imply duties of non-interference while ESC rights imply duties of active assistance.'¹ Despite the ESC rights not being recognised in any UK documents, they are noted in the Universal Declaration of Human Rights and also the International Covenant on Economic, Social and Cultural rights. However they were not mentioned in the European Convention on Human Rights, because it is believed that they should not be forcing us into taking up the duties that come with these rights. Many people have the opinion that economic, social and cultural rights are aspirations that can never be fully applicable in our country, let alone in developing or third world countries. I disagree with this statement and I will explain why by looking at the duties which are enforced upon people when economic, social and cultural rights are applied.

¹ P184 Human Rights, Human Plights in a Global Village by Rob Buitenweg

Economic, Social and Cultural Duties-

It is argued that the reason why economic, social and cultural rights cannot be important is because the duties arising from them are too vague and that in comparison to civil and political rights, they are not clear at all. Henri Shue stated that there are three levels of duties which are issued along with economic, social and cultural rights, they are; 'duties to avoid deprivation, duties to protect from deprivation and duties to aid the deprived.' The first two duties laid out by Shue are what we call negative duties, which do not involve giving something, but rather protecting something, whereas the final duty to aid is a positive duty. This suggestion by Shue shows that economic, social and cultural rights are not just about a duty to provide, which ensures the government or citizens are out of pocket, but they are also about assistance and protection. For example to protect the right to food, the government could ensure that a key local produce farm, is not purchased by a hotel developer, as this would deprive the right holders of their main means of sustenance. Therefore these rights are more about the government protecting rights and allowing citizens a chance to aid themselves.

However it is not just the government who should be working towards the realisation of economic, social and cultural rights, but rather all citizens. Henry Shue defined basic rights as; 'everyone's minimum demands on the rest of humanity.' In other words these rights are something we should be helping each other to achieve, and not rely on the government to aid us and provide us with what we need to fulfil these rights. However the Libertarianist view argues that this is wrong and that these duties should not be imposed upon the public. In some ways this is sensible, because how far the public or the government would be expected to go to protect and provide economic, social and cultural rights? In terms of the right to healthcare, would they be expected to simply provide the bare minimum healthcare, or would they have a duty to pay for and provide expensive experimental treatments? Although another view is that the right to healthcare is provided in some ways, for example the government is expected to protect us at all costs from epidemics, by establishing and maintaining appropriate health and safety in all hospitals. The public would not be happy if the government allowed an epidemic to progress or even begin, surely this is a form of economic, social and cultural rights in the UK currently, even if it is not recognised officially. The argument posed by the Libertarianist view, does pose a question though, how is the imposition of these rights possible, without the consent and the co-operation of the public. In my opinion there could be a referendum of some kind asking the public their opinion on the possibility of additional economic, social and cultural rights taxation. This would make rights such as the right to water, shelter and food possible. Essentially however, it is clear that the duties imposed by economic, social and cultural rights are not too vague, it is just the application of them that is a challenge, and this certainly does not make them unimportant.

Would economic, social and cultural rights ever be justicable?

Another issue with the application of economic, social and cultural rights is that even if they were to be documented in this country and made clear, would they ever be justicable? If they were, would this be fair and appropriate to say that a right has been violated for a failure to provide clean water for example. In my opinion I believe that the imposition of the negative duties imposed by economic, social and cultural rights would be justicable. This only expects the government to put in place structures and systems to ensure that these rights are protected, not to actually provide the water or the food themselves. For example the government in India have made the right to shelter justicable by making it impossible to

force an eviction without notice, which would in turn protect their citizen's right to shelter. Therefore I believe that economic, social and cultural rights are justicable, even if it is only partially at first.

Conclusion-

To conclude, it is true to say that economic, social and cultural rights are currently an aspiration, however I believe that they can be fulfilled if people take them seriously. There are many methods and measures which can be adopted to allow for applicable and clear economic, social and cultural rights in this country and internationally, even if it is only the negative duties that are being imposed. The application of these rights and duties could solve problems such as poverty, homelessness and illiteracy, so it is shocking to think that these rights are viewed as unimportant due to their current vagueness within statutes. In fact, I believe they are potentially more important than civil and political rights.

Bibliography-

- Human Rights, Human Plights in a Global Village by Rob Buitenweg, Chapter 7
- Class notes