



## UN reform

# The new Human Rights Council: Acceptance by rights groups

QUMRUNNESSA NAZLY

**D**ESPITE lots of criticisms on the effective functioning of the Commission on Human Rights, it continued to set international Human Rights standards starting from the Universal Declaration of Human Rights and, most importantly, it took the efforts

to be engaged constantly in the human rights concerns of the states by introducing special procedures.

Anyway, the forum also acted as a platform where countries, large and small, non-governmental groups and human rights defenders from around the world could voice their concerns. The failure of the Commission on Human Rights in

protecting and preventing human rights of the people of the world was truly because of the electoral procedure regarding the composition of members of the Commission and the limited mandate given thereto and of course eventually because of the lack of commitment of the member states.

Pursuant with the secretary

general's proposal of UN reform in significant sectors like Security Council and Human Rights Commission etc, to make the UN meet the global challenge in the new millennium, in September 2005 world summit, the world leaders pledged to replace the Commission on Human Rights by Human Rights Council with more effective mechanism. And after long discussion, negotiations among the state parties to the UN and opposition by a number of states, on 15th March 2006 the text of new Human Rights Council has been adopted overwhelmingly despite the US voted against the resolution containing the text. Although the text doesn't comply hundred percent of the expectations of the rights groups, they welcomed the new text as better equipped than the Commission on Human Rights to address urgent, serious and long-running human rights situations wherever they occur.

Because of the following elements included in the text, it is being expected that the Human Rights Council will replace as an improvement the Commission on Human Rights:

ØThe Human Rights Council will be composed of 47 members directly elected by secret ballots by General Assembly with absolute

majority which will ensure more accountable body. Although rights groups preferred 2/3rd majority for the election of the members, but still it is an improvement over the voting system in Commission on Human Rights where the members were 54 of the Economic and Social Council.

ØThe provision of suspension of the member of the Council by 2/3rd majority of the General Assembly on the ground of gross and systematic violations of human rights has also given the platform for check and balance of the functioning of the Council as the members will not remain beyond scrutiny.

ØAlthough the Rights group preferred the Council of Human Rights as one of the principal organs of the United Nations giving significance to the realisation of human rights as one of the three pillars of UN, they welcomed the Council as subsidiary body of General Assembly with the provision of the review status within the next five years which will provide the opportunity to assess the work of the Council as to be promoted as a principal organ of the UN.

ØThe provision stated that Members of the Council shall be reviewed under the universal periodic review mechanism during their term of membership. And it is expected that this individual review

procedure will be a forwarding improvement to redress the double standards that its predecessors were frequently being accused of.

ØRetention of the participation of NGOs and the maintenance of the special procedures will also give positive impact on the functioning of the council.

ØThe body will act as standing body which will meet at least three times a year for ten weeks as an improvement on the Commission's single annual six-week meeting with a right for one-third of the Council members to call additional sessions when needed.

In a summary, it can be said that in terms of composition and accountability of its members the resolution ensured more competent and credible body. But UN Secretary General Kofi Annan has truly said in his statement on the Human Rights Council that the true test of the Council's credibility will be the use that member states make of it. So it is only the strong and honest will of the members of the council including all other members of the global body to take stands and fully utilise their mandates to uphold the human rights of the world citizens.

And adoption of the resolution is merely the first step and the very next step is upon the member states to elect to the council only those

countries which will concretely pledge to promote and protect human rights, utilising the new standards and procedures built into the resolution.

And as the composition of the council will also be proportionate to regional geographical divisions of the UN, the regional groups should present their nominations to the council at least thirty days prior to election which will be held on 9 May, 2006 to allow for public scrutiny of their human rights records; present more candidates than spot on their slates so that governments have a real choice of countries. Previous practice, in which regional groups offered closed lists of countries immediately before elections, as occurred in the UN Commission for Human Rights, must not continue. And for candidates, they must set forth a concrete and positive human rights agenda at home and for service on the council and commit to cooperate fully with the mechanisms of the Human Rights Council by granting unimpeded access to U.N. human rights investigators.

As the Council is also going to be a forum only for dialogue and cooperation its focus is to help member states meet their Human Rights standards through dialogue, capacity building and technical assistance. Although it added two new

commitments like capacity building and technical assistance which UN is doing through the OHCHR, it's lacking any enforcement mandates what its predecessor was lacking severely. So at the very beginning, new council members must adopt rules which will enable fair and transparent proceedings; establish a practice of condemning human rights abuses and making strong recommendations for improvement and design a universal review procedure which will provide neutral, objective scrutiny of the human rights records of all countries in the world starting with council members and make robust recommendations.

Lastly and importantly to come out of the criticism faced by its predecessor, since the beginning the new Council must show its honest commitment to address the worst human rights situations in the world regardless of political considerations, including by convening emergency sessions to ensure a timely and effective response.

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Courtesy: Ain O Salish Kendra (ASK)



## LAW alter views

# Amending Private University Act: Suggested recommendations

ABUL QUASEM HAIDER

**T**HE private universities in Bangladesh are going to occupy a vital position in the arena of higher education in the country. The government is according approval for setting up private universities under Private University Act 1992 and the amended Act of 1998. Till today 53 private universities got government approval. Most of them are situated in Dhaka, five in Chittagong, three in Sylhet, one each in Bogra and Comilla. Today, the private universities are able to make remarkable contribution side by side with the government universities. In the years to come, the private universities will be able to play a pioneer role in achieving the desired success.

Since the concept of private universities is new in Bangladesh, it is quite possible that there may be some omissions in running them. After commencement of operation of the private universities under Private University Act 1992, the government amended the Act in 1998 to further improve and facilitate smooth running of the private universities. Since then the private universities have been performing a very important and responsible role in spreading higher education in the country with the following achievements:

Establishment of private universities has reduced the propensity to go abroad for higher education to a great extent upto 40 percent to 50 percent. This has saved foreign currency to the tune of a few thousand crore taka and at the same time stopped brain drain. This can be considered as one of the remarkable successes of the private universities. At present approximately one lac students are reading in private universities. Foreign students are also studying in a good number of private universities of the country. The number of foreign

students are increasing day by day and we are earning foreign currency on this account.

Due to establishment of private universities employment opportunities have increased manifold. Besides employment of teachers and office staff, many students are getting part-time jobs. This has created job opportunities for a few thousands.

In the private universities, no session jam and political influence are there and consequently the students can complete their courses very quickly without any hindrance enabling them to start their service career early.

Most of the private universities maintain proper standard of education and the students get a good educational environment. This helps develop their faculty.

Introduction of semester system is a great contribution of the private universities. Because of implementation of this system, the students are saving time to complete their studies and at the same time the standard of education is also improving.

The private universities could take steps for reformation of higher education. The credit for this success goes to the sponsors of the universities. It is also their remarkable contribution to maintain an educational atmosphere free of hartal, student politics and smoking.

### Recommendations for amendments

A few days back, discussions both at private and government level took place regarding management, improvement of standard of education and compliance of government rules and policies in the private universities. In order to remove the problems, the government has taken initiatives to amend the Private University Act. Currently, the sponsors of the private universi-

ties could get the draft of the proposed 'Private University Act 2005'. For the purpose of placing recommendations safeguarding the interests of the private universities, an association named 'Association of Private Universities of Bangladesh' has, in the mean time, been formed consisting of the sponsors of the private universities of the country with a view to establishing cordial relationship among the sponsors. With the initiative of this association, its members have, in the mean time met the Hon'ble President of the People's Republic of Bangladesh, the Minister for Education and other respected members of the Cabinet of Ministers. Subsequently the attitudes of the Association was brought to light through holding a press conference. The Education Minister held a discussion meeting with the members of the association on July 05, 2005. The minister informed the members that the Private University Act 1992 would be amended rather than changing it. He gave hope that the issue would be discussed with the Association at its final stage. But till today, the Education Minister could not give time to have discussion with the members of the Association. We hope he will soon call for a discussion meeting with the members and make acceptable amendments. Now I would like to submit some suggestions on certain provisions of the proposed amended Private University Act 2005 as under:

The proposed Private University Act 2005 has in its clause Nos. 16 and 17, the provision for Board of Trustees and Syndicate. The same was there in the Act 1992. But in the proposed Act 2005, the number of members of the Syndicate has been restricted to 25. The Chief of the Syndicate is the Vice Chancellor and the tenure is fixed for three years. The Syndicate includes the Vice Chancellor, Pro-

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Vice Chancellor, Treasurer, a Dean selected by VC, three Heads of Department, three from Board of Trustees, two eminent educationists selected by the Board of Trustees, a representative not less than the position of Joint Secretary nominated by the government and a representative nominated by the University Grants Commission. The syndicate has been made all powerful but surprisingly, in this powerful body only three members have been proposed from among the founders of the universities. It is not understood how these three can make effective contribution to implement their thoughts. Nevertheless, they will be marked as minority in the 17-member committee and shall not be able to focus their ideas and implement that. So we suggest that the sub clause 1, 2 and 3 of clause 14 of the Act 1992 should remain unaltered. However, if necessary some additional terms/conditions may be included. Since the private universities are established by the private sponsors, expected results can, therefore, not be achieved unless the private sponsors are broadly included in the Committee. Otherwise, the proposed Private University Act 2005 will only help the private universities attain the character of government university. This is also not desirable by government because this may frustrate the very purpose of privatisation of the universities.

2. The proposed Private University Act 2005 has in its clause-5 the condition of having minimum 5 acres of land in Dhaka and Chittagong Metropolitan area and 10 acres in other areas. It's a

very tough condition because it will be very difficult to procure 5 acres of land in metropolitan areas. This limit may be reduced to 2 acres in metropolitan areas and the limit for other areas may be reduced from 10 acres to 5 acres. Under sub-clause 'GA' of this clause condition has been imposed that permanent structure of the university has to be constructed within 10 years. This time limit may be enhanced to 15 years because it will not be possible to arrange huge amount of money for construction of university campus within this short period of 10 years.

3. In the proposed Private University Act 2005 it has been mentioned at clause-7 that for construction of additional outer campus in addition to the approved one, Tk 1.00 crore has to be deposited to the government for each additional campus. In this connection we think that if the outer campus is constructed in the same place where the main campus is, then no extra money needs to be deposited. Only the permission from the authority concerned shall be required. If this is not considered then the cost of running the private universities will increase to the unbearable of the university management.

4. In the proposed Act, it has been mentioned at clause-8 'GHA' that at the time of commissioning of the university into operation, there shall be at least three faculties and each faculty shall contain minimum four departments in operation. We think this clause should not be incorporated. In this connection, the provision of the Act 1992 should remain in force.

5. It has been mentioned at clause-8 'JHA' that before starting admission, 10 percent seats shall be kept reserved for poor but meritorious students. In the previous Act 1992, this quota was fixed at 5 percent. We think as per provision of Act 1992, reservation of seats in this head should remain at 5 percent.

6. It has been mentioned at clause-12 of the proposed Act that for appointment of VC, 20 years of experience will be required and 18 years teaching experience will be required for appointment of Pro-Vice Chancellor. According to our opinion, 15 years of experience for appointment of VC and 10 years of experience for appointment of Pro-VC is sufficient. Appointment to these posts should be given by the Trustee Board/Foundation. If the appointment is given by the Chancellor it will be governmental and the university will lose its private character.

7. At clause-14 of the proposed Act 2005 condition has been imposed that for appointment of Treasurer 15 years teaching experience in college/university or financial institution will be required. We think 5 years experience is enough for appointment of Treasurer and the appointment shall be given by the Trustee Board/Foundation.

8. In the proposed Act 2005, it has been mentioned at sub-clause-2 of clause-5 that there shall be a reserve fund of Tk 5.00 crore for each university and no amount shall be withdrawn from the fund. But why? Why the fund of 53 universities amounting to Tk 265.00 crore shall remain idle. It is a great loss for the country. Approval must be

accorded by the government for utilisation of the fund for development work of the universities. There is no gain in keeping this huge amount idle without any purpose whatsoever.

9. At clause-38 of the proposed Act 2005 mention has been made for constitution of Accreditation Council. In our opinion Accreditation Council should be same without discrimination for both government and private university. There is no necessity for formation of separate Accreditation Council. The very purpose of this Council is to raise the standard of education which is required for both government and private universities. Variation in this regard may hamper the desired achievement.

10. The proposed Act 2005 has, in its clause-42 (3) 'KA', envisages that all the terms and conditions contained therein the Act have to be complied with within 5 years from the date of enactment. We hold the opinion that for compliance of condition like construction of permanent campus 15 years time should be allowed.

11. University Grants Commission should be strengthened with sufficient funds and manpower. A separate cell may be created for looking after the affairs of private universities. The Grants Commission may, on the basis of recommendations of the cell, examine and review the activities, system of examinations, method of teaching of the private universities regularly and issue necessary instructions as may be required. There should be provision for legal action against those violating the instructions. If the Accreditation Council is formed in that case such action will no more be necessary. The Accreditation Council will be working for raising the standard of education of both private and the government universities.

12. The government has so far accorded approval to 53 private

universities. Since all these universities could not raise their standard of education up to the expected mark, we think it would not be proper to accord further approval for establishment of new university. Unless the Grants Commission is made self sufficient and given full authority to look after and control the private universities, it will not be justified to give any further approval. The intention of the government is to uplift the standard of education of the private universities and create a congenial competition with the government universities. To achieve this goal the Ministry of Education and the University Grants Commission should give undivided attention to the existing 53 private universities for their improvement in respect of standard of education, discipline and compliance of government instructions.

Lastly, it is hoped that the government will arrange a discussion meeting with the sponsors of the private universities to arrive at a conclusion for preparing a long term planning and making largely acceptable amendments to the Private University Act 1992 in the interest of the nation. This process shall not change the private character of the universities and it shall also not create any impediments in the way of reflecting the thoughts of the private sponsors. Besides, the complaints as raised against the sponsors of the private universities will be hopefully mitigated removing the inadvertent omissions and commissions and this will help bringing the private universities to expected standard. We believe that the government is the guiding strength of the private sector. In this present age of free market and liberal economy, the prime role of the government is to extend legal and technological assistance to the private entrepreneurs.

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