

REVIEWING *the views*

## Addressing education agenda from rights perspective

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EDUCATION has been regarded in all societies and throughout human history both as an end in itself and as a means for the individual and society to grow. Its recognition as a human right is derived from the indispensability of education to the preservation and enhancement of the inherent dignity of the human person.

The Universal Declaration of Human Rights (UDHR) states, "Everyone has the right to education." In addition, it says that it shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Higher education shall be equally accessible to all on the basis of merit, and technical and professional education shall be made generally available.

The UDHR also stipulates that education should be directed towards the full development of the human personality and strengthening respect for human rights. Finally, it acknowledges that parents have a prior right to choose the kind of education that shall be given to their children.

Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) set out detailed formulations of the right to education. Article 13 contains a general statement that everyone has the right to education and that education should contribute to the full development of the human personality. It also specifically stipulates:

- Primary education shall be compulsory and available free to all.
- Secondary education, including technical and vocational education, shall be made generally available and accessible to all by every appropriate means, in particular by the progressive

introduction of free education.

- Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, in particular by the progressive introduction of free education.
- Fundamental education shall be intensified for those persons who have not received or completed the whole period of their primary education.
- Systems of schools shall be established and the material condition of teaching staff shall be continuously improved.
- The liberty of parents or guardians to choose for their children schools other than those established by the public authorities which conform to minimum educational standards shall be respected. In addition, article 13 recognises the liberty of parents or guardians to ensure the religious and moral education of their children in conformity with their own convictions.

### Education as development goal

Achieving the right to education for all is one of the biggest challenges of our times. The second International Development Goal addresses this challenge: universalising primary education in all countries by 2015. This is also one of the main objectives set at the World Education Forum (April 2000), where the right to basic education for all was reaffirmed as a fundamental human right.

Education is both a human right in itself and an indispensable means of realising other human rights. Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth. Increasingly, education is recognised as one of



the best financial investments states can make.

### Essential features of quality education

It has already been mentioned that ICESCR has ensured the most wide-ranging and comprehensive article on the right to education in international human rights law. While the precise and appropriate application of the terms will depend upon the conditions prevailing in a particular state party, education in all its forms and at all levels shall exhibit the following interrelated and essential features:

**Availability** The functioning educational institutions and programmes have to be available in sufficient quantity within the

jurisdiction of the state party. What they require to function depends upon numerous factors, including the developmental context within which they operate; for example, all institutions and programmes are likely to require buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on; while some will also require facilities such as a library, computer facilities and information technology. **Accessibility** The educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the state party. Accessibility has three overlapping dimensions,

such as i) non-discrimination, meaning education must be accessible to all, especially to the most vulnerable groups, in law and fact; ii) physical accessibility, meaning education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school) or via modern technology (e.g. access to a "distance learning" programme); and iii) economic accessibility, meaning education has to be affordable to all. **Acceptability** The form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents. **Adaptability** Education has to be flexible so that it can be adapted to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.

### Right to education

The fundamental question is how the obligations relating to the right to education undertaken by Member States under international and regional instruments are incorporated into national legal systems? This is all the more important for achieving the Dakar goals, in keeping with the commitments made by Governments for providing education for all, especially free and compulsory quality basic education. But in spite of such legal obligations and political commitments, millions of children still remain deprived of educational opportunities, many of them on account of poverty. They must have access to basic education as of their right, in particular to primary education which must be free. Poverty must not be a hindrance and the claim by the poor to such education must be recognised and reinforced.

The responsibility devolves

upon the governments to ensure that political commitments undertaken at the World Education Forum are translated into national laws and policies. As a result, the constitutional and legislative foundation of the right to education assumes added significance, taking fully into account the legal implications of the Dakar Framework for Action. The discussion on the Right to Education and follow-up to the World Education Forum (Dakar, April 2000) organised by the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR), in co-operation with UNESCO on 14 May 2002, clearly showed how crucial it was to introduce constitutional provisions on the right to education as well as appropriate enabling legislation so that the state obligations under the relevant international conventions are incorporated into the domestic legal order.

In a concerted effort directed to materialising rights of the people, the dynamics between right-holders and duty-bearers is a must through some process or approach. One such popularly used and effective approach having been adopted globally is rights-based approach (RBA). In Bangladesh situation the obligation of the state towards implementing the agenda of education as part of fundamental rights is totally absent. The constitution of Bangladesh does not recognise education as a fundamental right. Merely an obligation of education is articulated in article 15 as part of "provision of basic necessities" under the fundamental principles of state policy. Unless and until the term "education" is taken for granted as a fundamental right, the obligation of the state will remain unchallenged from the common people. Therefore, a people's movement though RBA facilitated by social actors and reformers is

imperative in Bangladesh. In this regard, people's expectation from Sheikh Hasina's government to recognise education as a fundamental right, is very high.

### Guiding Principles of RBA

A right-based approach to development including education has certain guiding principles. The most important and likewise implicit in the UN Charter, is that development has a responsibility in achieving the full realisation of human rights. Human rights cannot be realised without development. Development should seek empowerment both in the process and in the outcome of poverty eradication strategies.

Essentially, a rights-based approach integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development. The norms and standards are those contained in the wealth of international treaties and declarations. The principles include equality and equity, accountability, empowerment and participation. A rights-based approach to development includes the following elements: a) express linkage to rights, b) accountability c) empowerment d) participation, e) attention to vulnerable groups and f) equality and non-discrimination.

### Conclusion

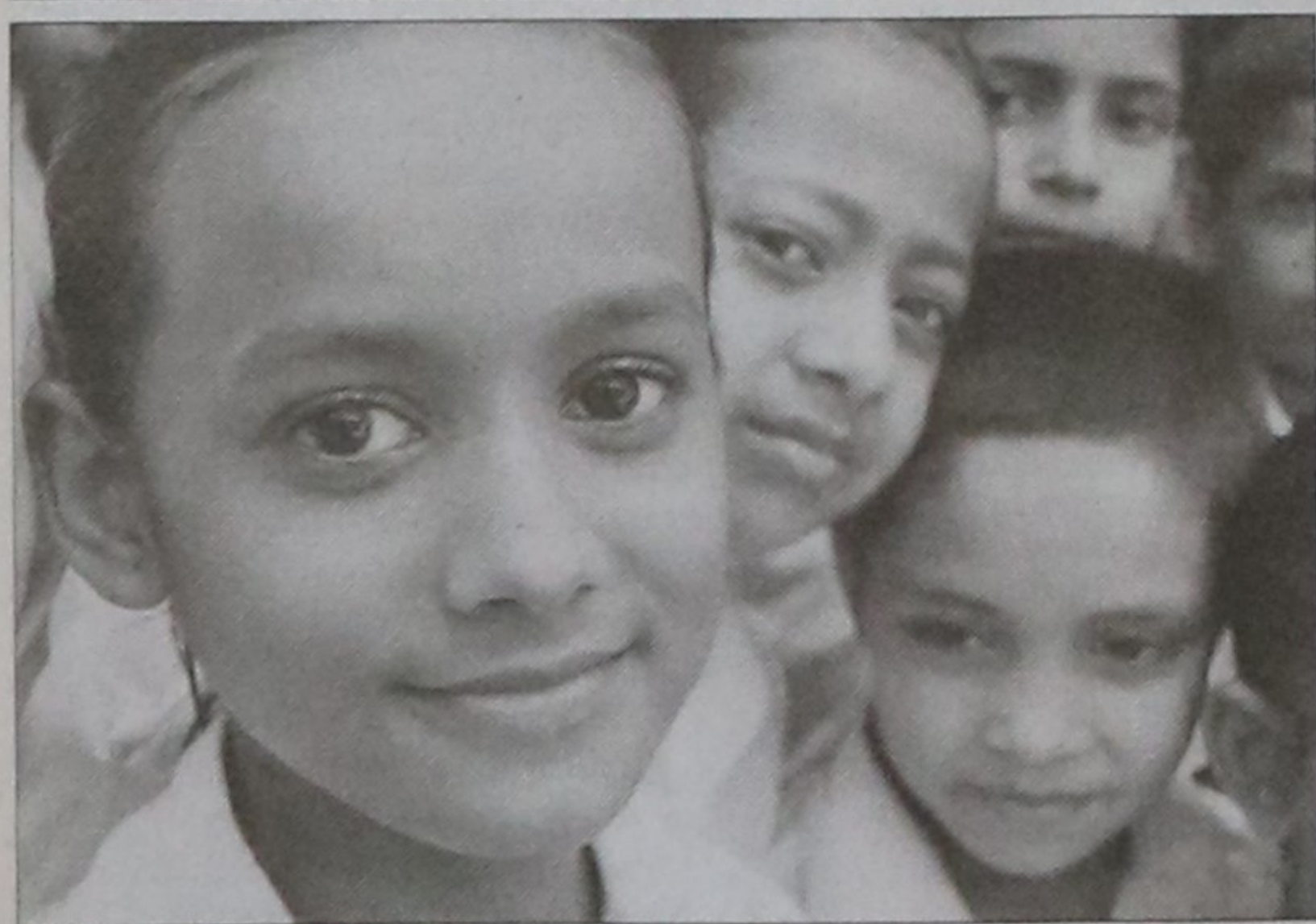
The current poverty discourse stresses the need to integrate governance issues into poverty reduction strategies because more attention needs to be paid to accountability, transparency, empowerment, responsiveness and participation of people in poverty programmes. Needless to say, without "education as fundamental right" the existing poverty cannot be eliminated. The human rights framework in this respect is of invaluable assistance.

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## FACT file

## Global child mortality continues to drop

The new data shows that seven of the 67 high mortality countries (those with under-five mortality rates of 40 per thousand live births or higher) have consistently achieved annual rates of reduction of under-five mortality of 4.5 per cent or higher. These are Nepal, Bangladesh, Eritrea, Lao People's Democratic Republic, Mongolia, Bolivia and Malawi.



ON 10 September 2009 UNICEF released new figures that show the rate of deaths of children under five years of age continued to decline in 2008.

The data shows a 28 per cent decline in the under-five mortality rate, from 90 deaths per 1000 live births in 1990, to 65 deaths per 1000 live births in 2008. According to these estimates, the absolute number of child deaths in 2008 declined to an estimated 8.8 million from 12.5 million in 1990, the base line year for the Millennium Development Goals (MDGs).

"Compared to 1990, 10,000 fewer children are dying every day," said UNICEF Executive Director Ann M. Veneman. "While progress is being made, it is unacceptable that each year 8.8 million children die before their fifth birthday."

The new estimates are the result of collection and analysis of a range of data sources by demographers and health experts from UNICEF, the World Health Organization, the World Bank and the United Nations Population Division, guided by technical advisors from a number of major academic institutions.

The data shows global under-five mortality has decreased steadily over the past two decades, and that the rate of the decline in the under-five mortality rates has increased since the 1990s. The average rate of decline from 2000 to 2008 is 2.3 per cent, compared to a 1.4 per cent average decline from 1990 to 2000.

Public health experts attribute the continuing decline to increased use of key health interventions, such as immu-

nizations, including measles vaccinations, the use of insecticide-treated bednets to prevent malaria and Vitamin A supplementation. Where these interventions have increased, positive results have followed.

Progress has been seen in every part of the world, and even in some of the least-developed countries. A key example is Malawi, one of ten high under-five mortality countries that is now on track to meet the Millennium Development Goal (MDG) of a two-thirds reduction in under-five mortality between 1990 and 2015.

Estimates show that under-five mortality in Malawi has fallen from 225 deaths per 1000 live births in 1990, to 100 per thousand on 2008. In 2000, only 3 per cent of children under five slept under a mosquito net, a key means of preventing malaria, whereas by 2006 this had risen to 25 per cent. Malawi has focused its limited resources on improvements in health and health systems and the use of the most effective interventions, with the result that significant numbers of children's lives have been saved.

The new data also shows that seven of the 67 high mortality countries (those with under-five mortality rates of 40 per thousand live births or higher) have consistently achieved annual rates of reduction of under-five mortality of 4.5 per cent or higher. These are Nepal, Bangladesh, Eritrea, Lao People's Democratic Republic, Mongolia, Bolivia and Malawi.

Impressive gains have also been made in countries that are not fully on track to meet the Millennium goal. Niger, Mozambique and Ethiopia have all reduced under-five mortality by more than 100 per 1000 live births since 1990.

While progress has been made in many countries, the global rate of improvement is still insufficient to reach the MDG, and Africa and Asia combined still account for 93 per cent of all under-five deaths that occur each year in the developing world.

"A handful of countries with large populations bear a disproportionate

burden of under-five deaths, with forty per cent of the world's under-five deaths occurring in just three countries: India, Nigeria, and the Democratic Republic of Congo," said Veneman. "Unless mortality in these countries can be significantly reduced, the MDG targets will not be met."

In some countries, progress is slow or non-existent. In South Africa the under-five mortality rate has actually gone up since 1990. The health of the child is inextricably linked to the health of the mother and South Africa has the highest number of women living with HIV in the world. Recent commitments by the government to scale up interventions to prevent mother-to-child transmission of HIV/AIDS should help improve the situation.

The survey data incorporated in these estimates generally reflects mortality over the preceding 3 to 5 years. This means that major improvements in provision of nets for malaria prevention, of vaccines against meningitis (HIB) and of vitamin A supplementation, improved prevention of mother-to-child transmission of HIV and of pediatric HIV, and further progress on protecting against measles and tetanus may not yet be fully reflected in the data.

Progress can be accelerated even in the poorest environments, through integrated, evidence-driven, community-based health programs that focus on addressing the major causes of death -- pneumonia, diarrhea, newborn disorders, malaria, HIV and under-nutrition.

The two leading causes of under-five mortality are pneumonia and diarrhea. New tools, such as vaccines against pneumococcal pneumonia and rotaviral diarrhea, could provide additional momentum.

"Achieving the Millennium Development Goal target of a two-thirds reduction in under-five mortality by 2015 will require a strong sense of urgency with targeted resources for greater progress," said Veneman.

UNICEF Press release.

## HUMAN RIGHTS monitor

## Ban on abortions will put women's lives in danger

PROPOSED changes to the constitution of the Dominican Republic could lead to a ban on abortions, putting the lives of women and girls at risk and potentially increasing maternal deaths in the country, Amnesty International has warned.

Article 30 of the constitution would introduce the inviolability of life from "conception to death" under the proposal. It is widely acknowledged that this will lead to changes in the country's Penal Code that could lead to a total abortion ban.

"As it stands, the proposed change to the Constitution would have a devastating impact on women's and girls' access to effective reproductive health care in the Dominican Republic," said Susan Lee, Americas Director at Amnesty International. The Congress of the Dominican Republic is to vote on the proposed changes on September 10, 2009.

If the article is approved as proposed, it would severely limit the availability of safe abortions, even in cases when a woman is suffering from life-threatening complications or is in need of life-saving treatment incompatible with pregnancy such as that for malaria, cancer or HIV/AIDS.

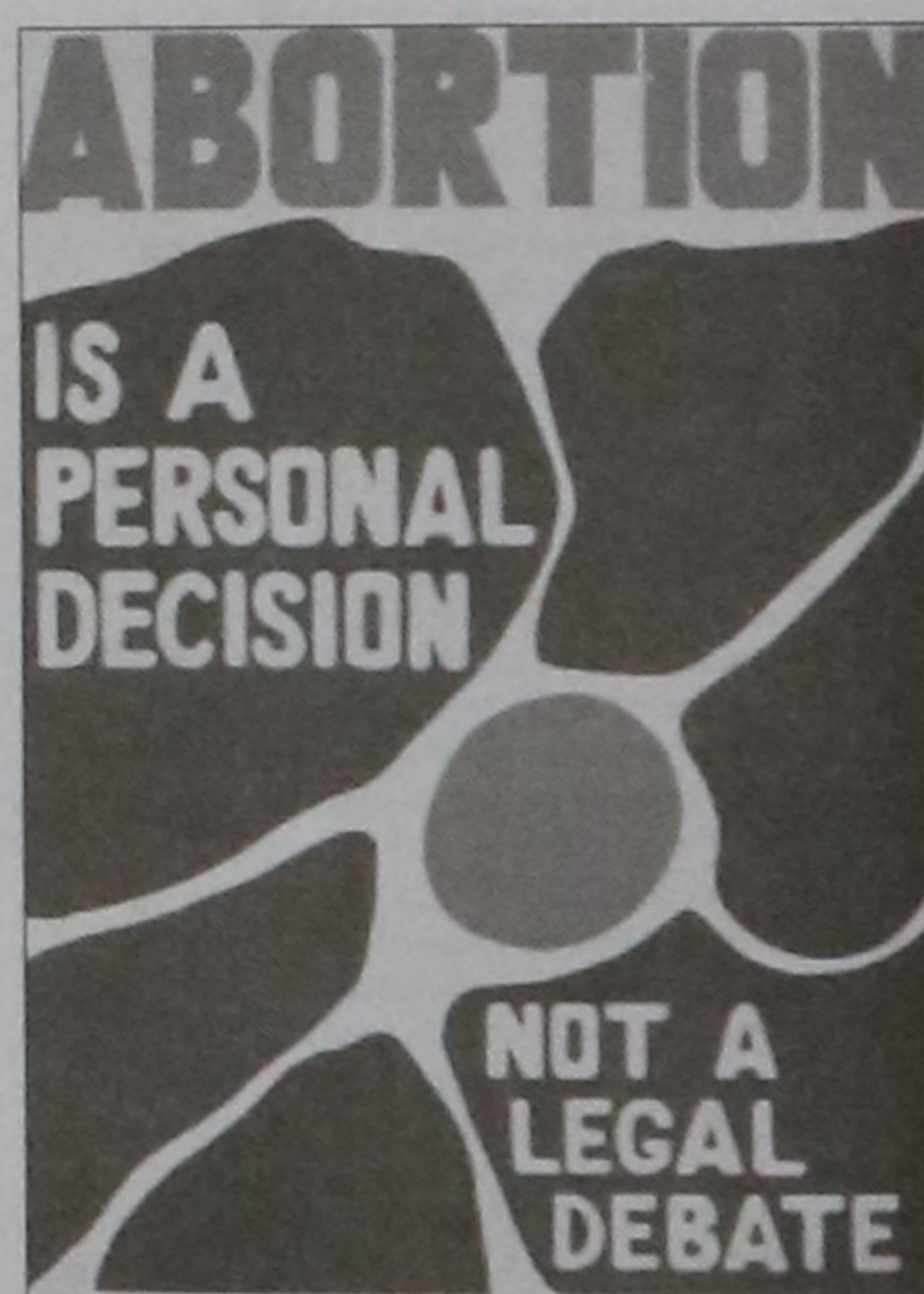
Furthermore, access to safe abortion for women or girls who have unwanted pregnancies as a result of rape or incest would become even more restricted.

The Dominican Society of Obstetrics and Gynaecologists has pointed out the "catastrophic" impact that Article 30 could have on maternal mortality. If adopted in its current formulation, Article 30 would compromise doctors' ability to provide timely and effective treatment for women and girls suffering complications during pregnancy.

"When abortion is totally banned, the rates of maternal mortality grow because doctors are unable or fearful of providing life-saving treatment that is contraindicated with pregnancy, even when it's the only way to save the patient," said Susan Lee.

Amnesty International recently published a report looking at the impact of the total ban on all forms of abortion in Nicaragua.

It found that the ban is contributing to an increase in maternal deaths across the country -- 33 girls and women have died in pregnancy so far in 2009 compared to 20 in the same period last year. Because of inadequacies in the



country's collection of maternal health data, these official figures are believed to be only a minimum.

"In the very few countries that have total bans on abortions, many doctors, due to fear of being prosecuted, delay the delivery of effective medical treatment or feel justified in refusing it, even when it might result in the death of the pregnant woman or long-term damage to her health," said Susan Lee.

"Four UN treaty bodies have strongly criticized Nicaragua's full ban on abortions because of the risks it places on women's and girls' lives and health. The Dominican Republic should not follow the same steps," said Susan Lee.

Amnesty International has called on the Congress of the Dominican Republic to reject the "conception to death" part of Article 30.

The organization has also urged the Congress to take all necessary measures to ensure that safe and legal abortion services are available, accessible, and of good quality for all women who require them in all cases where the pregnancy is a result of rape or incest and when the pregnancy poses a risk to the life or health of the woman.

Source: Amnesty International.