

Education as a fundamental right

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THE right to education has been recognised since the Universal Declaration of Human Rights (UDHR) in 1948. Article 26 of UDHR proclaims: "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Education shall be directed to the full development of human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among racial or religious groups..."

The right to education has been enshrined in a range of international conventions, including the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), the Convention on the Elimination of all forms Of Discrimination Against Women (CEDAW, 1979), the Convention on the Rights of the Child (CRC, 1989), and more recently Convention on the Rights of the Persons with Disabilities (2006). It has also been incorporated into various regional treaties and many national constitutions.

Right to education has been accepted as a fundamental right along with a constitutional guarantee in Article 17 of the interim Constitution (2007) of Nepal. It is states that (i) each community shall have the right to get basic education in their mother tongue as provided for in the law; (ii) every citizen shall have the right to free education from the state up to secondary level

as provided for in the law; (iii) each community residing in Nepal shall have the right to preserve and promote its language, script, culture, cultural civility and heritage.

According to Article 36 of the Constitution of Maldives, right to education is the fundamental right of the citizens of Maldives. It says that (i) everyone has the right to education without discrimination of any kind; (ii) primary and secondary education shall be freely provided by the state. It is imperative on parents and the state to provide children with primary and secondary education. Opportunity for higher education shall be generally accessible to all citizens; (c) education shall strive to inculcate obedience to Islam, instill love for Islam, foster respect for human rights, and promote understanding, tolerance and friendship among all people.

In 2002, the Indian government incorporated the right to education in its constitution as a fundamental right of the citizens through Article 21A, mentioning that the state shall provide free and compulsory education to all children between the ages of six and fourteen years in such manner as the state may, by law, determine. This constitutional obligation came into force through passing of the Right of Children to Free and Compulsory Education (RTE) Act 2009, and was a historic moment for the children of India.

This Act serves as a building block to ensure that every child has his or her right (as an entitlement) to get a quality elementary education, and that the state, with the help of families and communities,

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fulfils this obligation. The RTE Act has three major obligations that require adequate funding provisions, (i) recruit and deploy teachers at 30:1 ratio in every school within six months of notification; (ii) neighbourhood schools of specified quality for every child within three year; (iii) all teachers to be trained to a national norm within five years of notification.

The Awami League-led govern-

ment is committed to undertaking structural reforms that are expected to bring significant improvements in the education sector. The commitment was made on May 31, 2010 after approval of the National Education Policy, which says that primary education will be free for all and compulsory up to class-VIII and stipends would be given to students on the basis of results in class V.

In addition to this, Article 8(2) of the Constitution says that the fundamental principles of state policy shall be fundamental to the governance of the state and shall be guide to the interpretation of the Constitution and other laws and for making of laws of Bangladesh.

Article 17 of the Constitution guarantees free and compulsory education. It says: "Free and compulsory education: The state shall adopt effective measures for (i) establishing a uniform mass-oriented and universal system of education and extending free and compulsory education to all children to such stage as may be determined by law; (b) relating education to the needs of the society and producing properly trained and motivated citizens to serve these needs; (c) removing illiteracy within such time as may be determined by law."

The perspective plan of Bangladesh 2010-2021 says: "Education is directly linked to the building of a dynamic economy, an efficient system of governance and secular democracy and an enlightened progressive society. Illiteracy and democracy cannot run together. Recent experiences of developing countries suggest that successful implementation of population policies, such as delayed marriage and child birth, and reduction in family size, depends to a great extent upon successful education of girls. Education, health, nutrition, family size and employment reinforce each other."

The specific objective of this plan regarding education is to eliminate illiteracy by 2014 and attain 100%

enrolment in the 12th class by 2021 with gender parity addressing the dropout problem at the primary and secondary levels. It is planned to implement the national education policy by 2019, while the nation has an international commitment to reach EFA and MDGs goals by 2015.

Above all, Bangladesh has a constitutional obligation for right to education that in pursuant to the provision of Article 8(2) of the Constitution, the constitutional provisions of "equality clause" contemplated under Article 27, "equality of opportunity in public employment" contemplated under Article 29 and "protection of right to life and personal liberty" contemplated under Article 32. These must be read and interpreted together with the provisions of Article 17 of the Constitution.

Hence, equality of opportunity in public employment must necessarily include equality of access to the opportunity in public employment, which must encompass the obligation of the state to adopt necessary measures to achieve the full realisation of the contents of Article 17 to allow the citizen to be properly trained or educated to get access to Article 29 and not to be deprived of life to enjoy the rights enshrined in Article 32. All the mentioned articles justify free and compulsory education as a fundamental right of the people. So, there is no scope to deny the demand for constitutional recognition of education as a fundamental right.

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Tax on private universities

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A budget is a record showing the projected income and expenditure of the government for a fiscal year with detailed source of revenue and allocation of expenditure that is consistent with government fiscal policy to promote overall socio economic goal. Budgetary policy not only shows the government's policy and attitude towards particular sectors and activities, it can also influence particular activities either by financial support and/or by incentive/disincentive through tax policies.

Encouragingly enough, there has been a recent trend to accommodate suggestions made by the stakeholders, either at the consultative meetings with government officials or at the press releases made by the trade bodies. Unfortunately, the government imposed some form of VAT and IT on non-government universities in previous budgets. While public universities operate with almost 100% government financial support, non-government universities do not get any such support from the government; rather they are now subject to taxes. The issue needs careful reconsideration for the sake of higher education in the country.

Knowledge and human capital have been increasingly supplementing physical capital as a means of production and sources of growth. In developing countries like Bangladesh, higher education is critically important as it can play an important role in transforming the huge population into a resource. Education is a "merit good" whose social benefit is higher than private benefit.

Economic theory advises government support in providing "merit good." The cost of providing higher education is too high. There are now 31 public universities whose establishment and development are virtually funded by the government. Tuition fees realised from the students is quite nominal. These public universities virtually run on the tax payers' money. In the fiscal year 2008-09 public universities were granted Tk.746 crore from the national budget.

With increase in population, per

capita income, and enrollment in primary and secondary schools, the demand for higher education increased considerably, which public universities were unable to meet. In addition to this demand-supply gap, there was a need for profession-oriented higher education that was not provided much by the public universities. Since the enactment of Private University Act, 1992, private universities have grown in terms of number, enroll-

exchequer in terms of personal income tax. Despite such an important role of private universities, GOB introduced some taxes on private universities. These include 15% VAT on operating surplus and 15% VAT on rented buildings. We believe that any form of taxation on private universities is undesirable and unjustified. Several arguments can be put forward against such taxes on private universities:

Private universities play a crucial role not only by providing higher education to a growing number of students but also making important contribution to the overall economy in many ways. Hence, the government should encourage development of such universities. Imposition of VAT and taxes may hinder development of these



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ment and diversity of programmes. In 2009, 51 non-government universities were providing higher education to more than 200,000 students, which is about 55% of total university-going students. These non-government universities are playing an important role in the economy in the following ways:

- Meeting growing demand for higher education;
- Reducing pressure on government budget to finance ever-growing demand for higher studies;
- Retaining hard-earned foreign currency, as many students prefer to go abroad in the absence of the programmes available in private universities;
- Generating employment, reducing brain drain;
- Contributing to national

- Education is a "merit good": The idea of imposing tax on "merit good" is completely opposite to the policy implications of standard economic theory;
- Principles of taxation and equity: With massive increase of students, it is now obvious that students from middle-class and lower-middle class or even poor families come for education in private universities. Hence, taxing the private universities, which will be a burden on the students, will not be equitable. While one group of students is studying virtually free (i.e. students in the public universities) other students are paying for their own education. It will be unfair to impose tax on the latter group by any standard of social justice;

- Tax may hamper infrastructure development: VAT on rents paid on rented building would reduce investible surplus. Taxes on operating surplus would reduce available fund for campus development. While, as per Private University Act, such universities have obligation to move to their own campuses within the shortest possible time, taxes on them may slow down the process.
- Inconsistency of taxes with the spirit of a university and the legal issues: Universities are not business organisations. They are educational institutions and do not run on commercial basis. Hence, income tax on universities is inconsistent with the spirit and functioning of non-government universities. Moreover, it also contradicts some of the earlier relevant SRO of the GOB. Private universities play a crucial role not only by providing higher education to a growing number of students but also making important contribution to the overall economy in many ways. Hence, the government should encourage development of such universities. Imposition of VAT and taxes may hinder development of these universities. Income tax is not imposed on any university in the Saarc countries or anywhere else in the world. Rather, universities get support from the government. In developed countries, even the private universities get support from the government particularly for research activities. Keeping all these in mind the paper proposes that the following fiscal measures be incorporated in the coming national budget for FY 2011-12
- Complete withdrawal of 15% income tax on the "operating surpluses" of the private Universities;
- Complete withdrawal of 15% VAT on rents paid for rented building used by the private universities;
- If possible, the government may keep moderate allocation for research fund that could be distributed among the private and public universities on competitive basis.

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[The article is based on a keynote paper titled Fiscal Measures in Next Budget to Promote Higher Education in Non-Government Sector]

Implications of social safety net programmes

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SOCIAL Safety Net Programmes (SSNP) are provided to the vulnerable groups of the country to improve their living standard by eradicating hunger and poverty. The government has allocated Tk.19,497 crore for the FY11 for 84 programmes under the umbrella of SSNP to help those who live in poor and extremely poor conditions to attain a better life.

It is hard to find out the real impact of the transfer or allocation of the funds, and whether the poor are really being benefited or not from these programmes. Apart from the allegations of handing over of these facilities to the persons loyal to the local authority, these programmes have a big impact on building rural infrastructure and helping the poverty stricken people to maintain a standard life.

There are some programmes which come to the rural people as relief or aid. The Vulnerable Group Feeding (VGF) is one such project. It has an allocation of Tk.1,536 crore in FY11, which is a 7.9% share of the total pie, and a 40% increment compared to the last fiscal year.

But what is the argument for augmenting this allocation rather than investing in other employment generating activities like VGD (Vulnerable Group Development)? In the current fiscal year, VGD has received Tk.638 crore, a 3.3% share of the total allocation. This figure is only a 7.3% increase from the previous fiscal year.

Food Minister Mr. Abdur Razzaque mentioned in a dialogue about the allocation on safety nets that the level of poverty has dropped to 31.5% in the last decade (Daily Star, May 5, 2011). So it is now time to shift investment from VGF, a relief programme for tackling disaster when agricultural production has been severely disrupted, to VGD which includes providing food grain as well as employment generating activities.

So, only feeding activities (VGF) cannot be a tool for development. VGF is a relief for emergency purposes. Continuous pouring of VGF resources in the hands of poor can make them too dependent on free meals.

A structural shift should be made

so that vulnerable people can be self-dependent rather than relying on the government. We should continue these safety net programmes, but the more income generating activities are included in the policy the more fruitful the programmes will be.

VGD assists selective households by providing food and training. It provides training for life-skills and capacity-building needed to undertake income generating activities. Generally, this programme is designed to provide food grains and

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training to the vulnerable people, mostly women, for a certain period, after which those women will utilise the learning to start their own venture.

But in reality, while meeting some of the beneficiaries of the VGD, there were very few entrepreneurial activities taking place for the lack of capital or endeavour. They are very worried about the future after the free food disbursement stops.

So these safety net programmes should be continued, combined with proper income generating training and monitoring. The government can also extend microcredit to the beneficiaries of the VGD at a lower rate, and this would have to be offered hassle-free. The beneficiaries are really in need of microcredit for starting their own enterprises.

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