

Education in the Constitution

MANZOOR AHMED

IN the debate about rewriting the Constitution, attention has been focused on preventing egotist adventurers from usurping political power and mauling the Constitution. While this is a matter of supreme importance the place of education, which is critical for the wellbeing of the people and the future of the nation, should also be considered.

Over 60 protagonists and activists in education demanded a Right to Education Law in a roundtable on the theme "Right to education: Ensuring access with equity and quality." The meeting, held on May 7, was hosted by Campaign for Popular Education and BRAC University Institute of Educational Development. The speakers argued that such a law was indispensable to fulfill the state's obligation to its citizens and redeem the Vision 2021 commitment of the government.

Some version of the right to education law exists in over 135 countries. India is one of the latest to adopt an elaborate law, which came into effect in April 2010. The roundtable heard from Prof. R. Govinda, Vice Chancellor of the National University for Educational Planning and Administration (NUEPA), Delhi, about the Indian experience and the challenges in implementing the law.

Dr. Govinda pointed out that the responsibility of the state to guarantee the provision of eight years of education for all children in India was affirmed in the 86th constitutional amendment adopted in December, 2002. The new Article 21A included in the fundamental rights section of the constitution said: "The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State

may, by law, determine."

The Right to Education Act adopted in 2009 (which came into effect in April 2010) was the law required by Article 21A of the Constitution. Incidentally, the original Article 45 under directive principles regarding education for children up to age 14 has now been reformulated by the 86th amendment to say that the state shall endeavour to provide childhood care and education to all children under age 6.

It took eight years for approval of the Act by both houses of the Parliament. Prof. Govinda noted that there was a raging debate about whether common minimum standards should apply to both private and government schools. In the end, the law required that both government and private schools must adhere to the common standards in order to achieve universal elementary school education for all with equity and quality.

Private schools are required to accept 25% of their new students from their neighbourhood without charging fees. NGOs are also required to conform to and meet set standards. However, it is recognised that many non-formal or alternative education programmes, often operating with resource constraints, lacked the ability to function properly. Consequently, it is necessary to renegotiate the role of NGOs and alternative providers and determine how they can be supported to make their necessary contribution. A transitional phase of three years has been allowed for this negotiation.

In respect of quality, the biggest challenge, Professor Govinda said, was to find an adequate number of qualified teachers; since at least half a million additional teachers have to be employed to meet the legislative requirements.

The Act provides that no child

The right to education law backed up by a fundamental rights provision in the constitution can help avoid the fate of past policies, which remained un-implemented.



SHAFIQ ISLAH/DRINK NEWS

shall be held back, expelled, or required to pass a public examination until completion of elementary (grade 8) education. However, inclusion strategies need to be developed and applied to ensure that the child is protected from prejudice both outside and inside the school, ensuring a conducive atmosphere in the classroom, the school and the community. Adequate monitoring was critical with effective inspection, Prof. Govinda said.

The National Commission for Protection of Child Rights (NCPCR) has been chosen as the monitoring agency under Section 31 of the RTE Act. NCPCR, a statutory body headed by a person of the status and authority of a Justice of the Supreme Court, has state (province) level affiliate bodies. It maintains a web-based portal for registering and tracking complaints online. It holds public hearings and "social

audits" as a monitoring device.

Dr. Govinda emphasised that the new law specified the obligations of all parties, particularly of the state at different levels from the centre to the panchayat, provided guidelines and standards for fulfilling the right to education of all children, ensured that no child was denied education because of the requirement to pay a fee, and generated great public awareness and enthusiasm. The act specified benchmarks for teachers, facilities, and curricular contents for all schools.

Additional funding for education was committed by the government, including the imposition of an education cess. Just before the 86th amendment was passed, when public interest was at peak, the Supreme Court of India ruled in 2001 that all schools must offer a cooked midday meal to enable children to attend a full day of school. With central gov-

ernment support for each child, a national school meal programme was initiated throughout the country in 2004.

Why was a constitutional amendment necessary to precede the RTE Act in India? The Indian constitution had a provision in Part 4, Article 45, under the "directive principles of state policy," which mandated the state to provide free and compulsory education to children between the ages of six and fourteen years. The 86th amendment replaced Article 45 in Part 4 by Article 21A in Part 3 of the constitution that lists the "justiciable" fundamental rights of citizens.

The obligation under the directive principles was in the Indian constitution since it was adopted in 1950. For almost five decades politicians and bureaucrats hemmed and hawed, finding arcane reasons not to act. They got away with it, because failure to follow directive principles could not be challenged in the court.

All Indian states long had in their statute books some version of the compulsory education law. These laws obviously have not been enforced seriously, because these were not backed up by a firm and unambiguous constitutional obligation of the state in this regard.

The Bangladesh Constitution, adopted in 1972, contains fundamental principles of state policy, in Part 2, and an enumeration of fundamental rights in Part 3 Article 17 under the fundamental principles provides that "the state shall adopt effective measures for the purpose of 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."

The formulation of the fundamental principles itself states that

these principles shall be a guide to the interpretation of the constitution and other laws, and shall form the basis of the work of the state, "but shall not be judicially enforceable."

The lesson from the Indian experience is that an unequivocal statement of state obligation regarding universal basic education should be incorporated into the listing of justiciable fundamental rights. Such a provision is a prerequisite for creating the environment for adopting a law "with teeth" on right to education and for implementing it effectively.

The Minister for Education, Mr. Nurul Islam Nahid, chief guest at the roundtable, agreed with the idea of an RTE law. He said: "It is not enough to have a National Education Policy. The challenge is its full implementation."

The right to education law backed up by a fundamental rights provision in the constitution can help avoid the fate of past policies, which remained un-implemented. The law can provide for a permanent education commission, recommended in the policy, to guide and monitor implementation of the policy.

An RTE law can spell out the ground rules for decentralised upazila-wise planning and budgeting of primary and secondary education with equity and quality for all children, as anticipated in the policy. It can establish the links between the implementation and monitoring mechanisms of the education policy and the recently revised National Child Policy.

The educational challenges are formidable. They will remain insurmountable without appropriate legal and organisational structures.

The writer is Senior Adviser at Institute of Educational Development, BRAC University.

Child rights on paper only?

JAHANGIR ALAM SARKER

WILL the Convention on the Rights of the Child (CRC) remain only a document? Bangladesh is bound to the world community to implement and build a useful world for the children. A lot of attention had been paid to satisfying the special needs and the wellbeing of the children throughout the last century from the social and political points of view.

An historical and farsighted international charter on the working plan for the children was framed in the United Nations General Assembly (UNGA) in 2000. But, although the member states consented to that plan, it remains a paper document for want of proper implementation.

At the opening ceremony of a special sitting of

laws will have to be enacted to prevent exploitation and oppression by family and the society.

Live saving medicine and medical facilities have to be provided for all children. Steps to eradicate HIV/AIDS have to be taken. It is our duty to build a healthy and natural environment for the development of children. Along with a healthy life, education must also be ensured for children. The entire world will be suitable to live in for everybody if the rights of the children are established. We shall all have to cooperate in planning, implementing and evaluating the issues involving the interests of children.

The promises which were made in the world children's session have not been fulfilled at the national and international levels as yet. There are manifest problems all over the world, which hinder



MIKE QUON

The government of Bangladesh has promised to participate with every member state in the struggle for establishing the rights of children. A decade has passed, yet no tangible change has taken place.

(UNGA) on May 8, 2000, Miss Andre Cheninti, representing Bolivian children, said: "We are children of the world, we are victim of exploitation and oppression, we live on the streets, we are war children. We are victim of HIV/AIDS and we lost our parents on account of HIV/AIDS. We are being deprived of developed healthcare. We are victims of political, economic, religion and environmental inequality. We are those children to whom none adheres to but today the time has come to think of us. We want a suitable world for children because a suitable world for children will be suitable for all."

Miss Carol Belami, Executive Director of the United Nations Children's Fund (Unicef), said: "After the promises, it is now time to take steps to implement them because the future of mankind depends on the children." But implementation is still very slow.

Much less money is spent on looking after the interests of children in comparison to the large amount spent on arms by the developed states. In order to build up a suitable world for the children

upholding of children's rights. More than 10 crore children, of which 60% are girls, cannot go to primary school. Almost 15 crore children in Third World countries suffer from various diseases. It is necessary to give priority to the rights of children in all initiatives of development. Time has come for the leaders of all the political parties to come to unanimity on one topic, and that is to consider the priority of children.

We have to promise to free children from the clutches of poverty. The most practical way to wipe out children's poverty is through investment and implementation of their rights.

The government of Bangladesh has promised to participate with every member state in the struggle for establishing the rights of children. A decade has passed, yet no tangible change has taken place. All the promises made remain paper-bound in the UN Headquarter.

The writer is a Lawyer and Human Rights Activist. Email: advsagar29@gmail.com and advsagar29@yahoo.com

Rejuvenate democracy, revive hope

Z.A. KHAN

SOME one once said that hope has very little to do with reason.

So it is no wonder that the disadvantaged segment of our society continues to hope that a day shall dawn heralding the end of democratic tyranny and beginning of an era when protection to life and liberty will become the buzzwords of our society. Given the track record of governments, past and present, it is naïve (perhaps utopian is a better word) to hope that it will ever inculcate motivation to bring about appropriate reform customised to local aspirations and ethos. Our people are frustrated with the moral eclipse of our leadership, and this may precipitate anarchy and chaos.

Our people have great patience. They are threatened with the dangers of untimely death, suffering, perpetual fear of natural vagaries, increasing divide between rich and poor, and pretexts for making the poor poorer. But they believe that their leaders will finally navigate them to a destination of peace and prosperity, and this will revive their will to thrive.

Since our liberation, one generation is about to yield to another but our human problems seem far from being attended to in right earnest. Today, the glory of being civilised has crumbled and the splendours of past achievements have faded. Once it was said "what Bengal (of which we were a part.) thinks today, India thinks tomorrow." Bengal was the cradle of all movements seeking rights to freedom, emancipation from slavery, and empowerment. What our people demand of their leaders today is a healing touch to the wounds they sustained over the years and shunning of "look down upon" attitude of the affluent stream of our society towards them.

They want the leadership to understand that the heart of the populace lies in the belly and that they should not wish it away capriciously. They implore the leadership to be patient with the opposition's criticism and develop interconnectivity with all

echelons of our society. They want to humbly remind the leadership that "differences on political issues are transitory, with time they can be resolved." They think that their leadership's responsibility is to see them against the background of affinity that we as a nation take pride in.

Our voters think that those voted to power by the grace of the electorate are temporarily in charge of state affairs and have no right to step away from their responsibility of keeping the

Our people desperately need a more humane society, a polity based on justice and fairplay, an economy that is rural-centric, and assured empowerment.

nation together on issues that may imbalance the voters temporarily. For, this is the legacy of good democracy which history retains to open when problems are resolved.

The people ask the opposition not to express judgment on national issues in haste and request them not to impose stifling conditions which may expose the party to isolation, as this may create cracks that may snowball into crumbling of the institutional structure of democracy and development.

In his infinite wisdom, venerable Nelson Mandela opined that "a good leader and a good heart are always a formidable combination and when he is blessed by a literate tongue or pen then you have something special" to enable him to swim in the hurrying river of time. One may question our leadership's mindset in this regard as, instead of taking criticism kindly, they tend to retort instantly. Our politicians should remain alert about the peoples' pulse, especially when the nation is fighting adversities.

The government and the opposition should live as comrades lest they should perish as non-performers. A government's proclivity to harass and terrorise political opponents was institutionalised by the enactment of Public Safety Act (PSA), which is an appropriate metaphor of insanity weighing against the need of the right to freedom to act and to speak.

Therefore, this Draconian law should be reviewed to assure the opponents that the government is conscious about its responsibility to create an environment of trust and concord so that all can parley and work together for peace and progress of the nation.

Nobody should forget that he who does evil should expect evil. We know that a broad majority of our people are living in the margins of the society, lacking basic security. They suffer from insecurity, uncertainty and fear. They are alienated from their own society, polity and even history. Their deep sense of insecurity stems mainly from economic marginalisation, exclusion, indignity of carrying begging bowl and violence because of intransigent attitude of the affluent who tell them to "follow or flee" from their own homes.

Therefore, we must map strategies to expressly rekindle their hopes by investigating and addressing the existing problems of structural inequalities. Leadership should ensure that the bedrock of democracy is not tampered with as it may seriously bedevil the social contract between the leader and the led. Rest assured, one cannot hide restlessness beneath the bushel of conformity. Our people desperately need a more humane society, a polity based on justice and fairplay, an economy that is rural-centric, and assured empowerment so that they can live with dignity and are reassured in their firm belief that:

"When the broken hearted Bangladeshis agree, there will be an answer, let it be, for, though they may be parted, there is still a chance they will see, there will be an answer, let it be."

The writer is a former Director General of BIIS.