



HUMAN RIGHTS WATCH

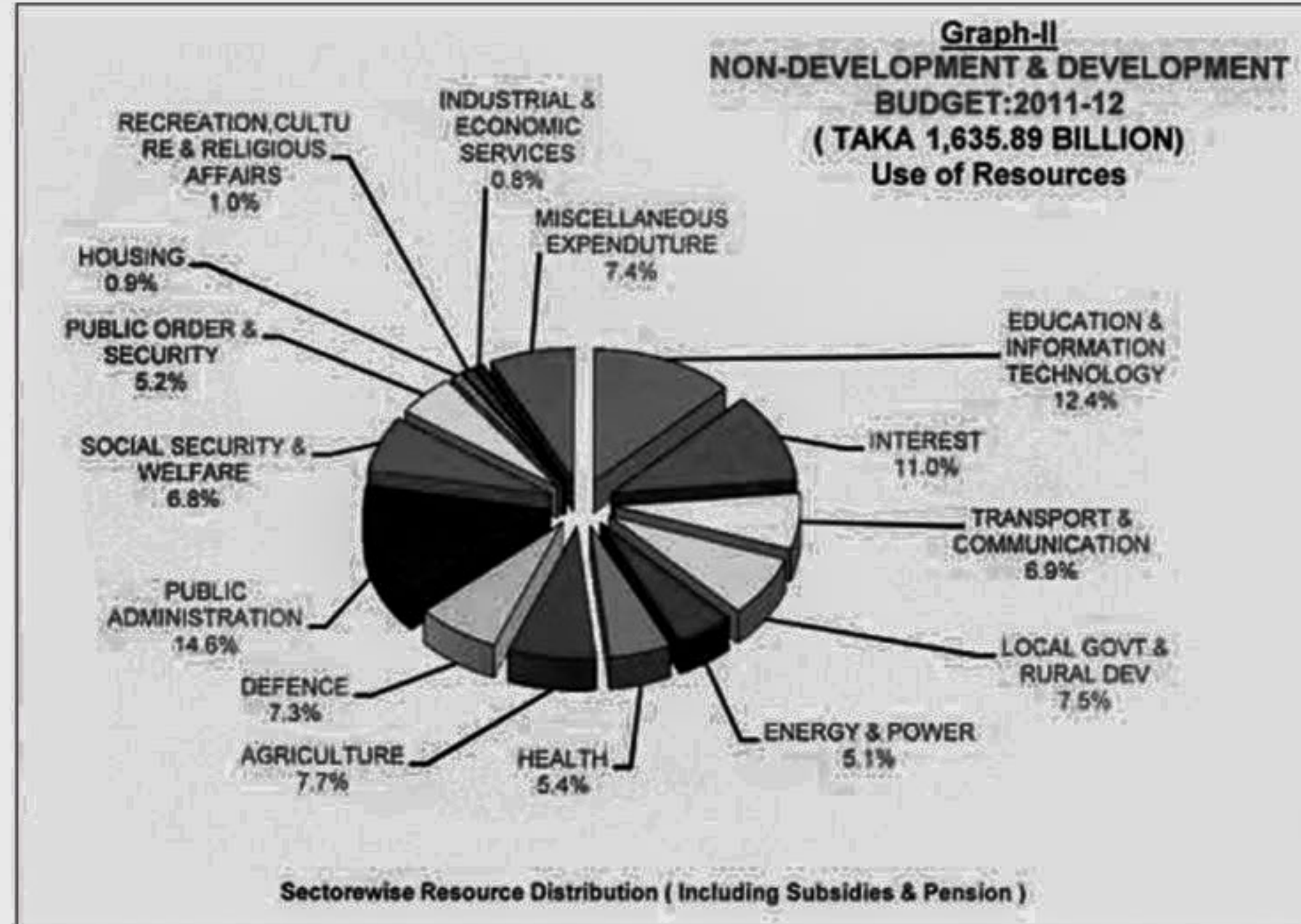
# Do we follow human rights approach to plan our budget?

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Is there really any human rights obligation under the national and international law on our Government in formulating national budget? Is our Government bound to comply with the human rights approach in formulating our national budget? Is there any specific provision of constitution or statute or any case law which compel our parliamentarians to follow human rights approach for planning our national budget? These questions lead us to legal query whether our parliamentarians do really know what human rights based approach is. We know national budget is the most important and biggest development project of our country. Regretting to acknowledge after interviewing more than 20 parliamentarians it was revealed that almost all of the parliamentarians have no knowledge about HRBA as a distinctive concept of human development. This is also evident from the pre/post budget debate of our both political parties and none of them raised any voice for human development through human rights based approach and its budgetary implementation. Human rights based approach (HRBA) is the most accepted and well valued development approach in the modern world. Reciting theoretical obligation of human rights law obliges governments (principally) and other duty bearers to do certain things and prevents them from doing others. According to Mary Robinson following three are the fundamental obligations of a State as primary duty bearer for enforcing people's rights: (i) to respect human rights means simply not to interfere with their enjoyment, (ii) to protect human rights means to ensure that third parties do not interfere with their enjoyment and (iii) to fulfill human rights means to take steps progressively to realise the right in question. Our budget is less concerned with ensuring of people's right by protecting their rights from third parties. Because, instances of violating rights are right by executive, legislative action is not so few. Even, curtailment of 'na vote' provision from election ballot paper is one

of those instances. Existing budgetary protection of right does not ensure effective protection of right because ours is dependent on the political will of the political governance of the country. This is a conditional protection which can not be protected effectively by free participation of people. As long as its implementation lies on the mercy, political will or benevolence, no HRBA is possible to follow effectively in development project because rights are not gifts or charity in which people are allowed or permitted to entitle. This refers lack of recognized forum/mechanism and environment for protecting people's rights by themselves. But Bangladesh still lacks far behind in protecting human rights in its strict and effective means. It is people's entitlements for and by which they are automatically empowered to participate, free to hold the duty bearers accountable, compel them to disclose all those public matters, accounts, financial documents, showing cause behind every work of duty bearer, initiate movement, challenge their decisions, etc.

Narrating the statutory obligation under Article 2 (1) of The Bangladesh (Budgetary Provisions) Order, 1972 (President's Order No. 74 of 1972) "the President shall, in respect of a financial year, cause to be prepared before the commencement of that year an Annual Budget Statement specifying the estimated receipts into, and the estimated expenditure from, the CF and may cause to be prepared Supplementary Budget Statements and Excess Budget Statements as and when required". The budget is the reflection of our demand and necessity which are needed to fulfill. Budget is the financial statement of the Government specifying the sources of income of Government and the developmental sectors where those incomes will be utilized. Two notions involve here i.e. "progressive realization" of rights and "minimum obligation". Instead, every state has a minimum obligation to provide the maximum available resources towards progressively fulfilling these rights over time. This raises questions about what might count as "maximum available resources" of course; although it has been suggested that spend-



ing 20 per cent of a government's budget on social sectors (as stipulated in the 20/20 compact emerging from the Social Summit in Copenhagen) might provide at least a minimum standard.

Referring the social-contract obligation Benjamin Franklin said that 'two things are obvious in human life, one is Death and another is Tax'. The Budget of previous years basically targets its prime source of income from revenue including numerous direct and indirect taxes. There is no such thing as government money it is only taxpayer's money. The more we demand of government, the more government costs. And it follows the "Square law rule". Government takes money that it earned from you, and gives it to someone else. This happens when the tax money you are forced to give to the government is given to others for their use. This is called "Income Redistribution". Government is bound to disclose its activities, be accountable, transparent and reply to the every relevant query relating to any development project for the nation because it has no money and power of its own. It is valid because we make it valid. It possesses power because we confer such power and authorize to exercise it for

and on behalf of us. "Government is of the people, for the people and by the people". In fact, government has no income of its own, Kneeland has said very rightly that "...all dollars come from the people. Where do [you] think Coca-Cola gets the money to pay its taxes...or even Microsoft gets the money to defend itself? It all ultimately can come from only one place, and that's from individuals." It takes money from the people, accumulate those, make a big fund, design developmental project and then distribute it. So, primarily duty confers upon the Government to provide the roof to protect you from the rain, the heat to comfort you from the cold, and the coffee to fill your stomach when the damn, greedy capitalists are all gone?

Regarding penal and tortuous liability, the duty bearers of budgetary obligation can be held liable under penal law for stealing, misappropriating, manipulating public fund as Government has no money of its own. They are public servant; entitle to get remuneration from the public. They act as a trustee/agent like directors of a shareholding company. Thus, breach of Government's fiduciary duty of honesty, skill, loyalty, due care, due diligence, extra

care etc, the duty bearers can be held liable for tortuous liability.

From historical and constitutional obligation, in view of our language movement, procession for right to self determination, national independent war, the overall spirit of our Constitution including Preamble, Article 7, Parts 2 and 3, Article 65, Chapter II and all other provisions and also for other statutes which time to time adopted for ensuring the people's right along with international institutions clarifies the rights of the people and State as duty holder. Mr. Justice ABM Khairul Haque in BIMW Ltd vs. Bangladesh and others, 2006 said "...It is the people who make supreme sacrifices for the creation of their Nation. It is the people for which a Nation exists. It is the people for which all high functionaries of the Republic do exist. Those high functionaries are created not for staying in ivory towers; rather they are created, so that they can serve the people better. The people do not exist for them, rather they including the Judges, [parliament i.e. legislatures] exist for the people and only for the people, however humble their station of life may be. The greatness of the State-functionaries depends not on their status or rank but how much and how far they can serve their people". "A politician cannot spend one dime on any spending project without first taking that dime from the person who earned it. So, when a politician votes for a spending bill he is saying that he believes the government should spend that particular dollar rather than the individual who worked for it. For the first time separate statute (The Government Finance and Budget Management Act, 2009 (Act No. 40 of 2009) has been enacted by the parliament but this is not as much as comprehensive as is necessary for an effective enforcement of human rights through budgetary obligations. Its scope is symbolised in its preamble. This act does not elaborate anything regarding budgetary obligation for confirming constitutional rights through assurance of effective participation by the people, accountability.

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HUMAN RIGHTS MONITOR



# Rights and empowerment of South Asian Youth: Reflections from a regional conference

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Up to what age a person will be considered youth is still not a point of agreement. Different countries and agencies have different understanding of youth age groups. The Bangladesh Youth Policy considers people aged 15-35 as youth. The State of World Population 2011 report informs that world population reached 7 billion in 2011 and 43 percent of this population is less than 25 years old. The young peoples' rights of health, education and employment are now at the centre of development debate unlike any other time. Greater numbers of world's youth live in developing countries as opposed to developed countries. In other word, poorer countries are likely to be younger while richer countries tend to be older as observed by Washington DC based Population Reference Bureau. Niger and Japan are two extreme examples. In Niger, a country of Sub Saharan Africa that is world's poorest region, more than half of population is aged below 15. On the other hand, about 23 percent of Japan's population, one of the world's richest nations, is aged above 65. Asia-Pacific is home of the 45 percent of world's youth amounting to 700 million young people while South Asia is the most youthful region of the world. Youth constitutes 20 percent of South Asia's population and they are 26 percent of world's youth population. So, it is high time to bring rights and empowerment of our youth to the centre of development agenda.

With this consideration in mind the joint regional conference titled "Giving Youth a Voice" was held at Colombo on 22-24 March 2012. Institute of Governance Studies (IGS) of BRAC University, Social Policy Analysis and Research Centre (SPARC) of Colombo University, Konrad Adenauer Stiftung (KAS), Swiss Agency for Development and Cooperation (SDC) and IDRC Canada joined hands in organising the conference. The Giving Youth a Voice (GYV) con-

ference had 6 thematic panels respectively on citizenship and state, right to education, youth policies, search for decent employment, family and community life, and, digital generation. Professor Mathias Albert of Bielefeld University of Germany gave the keynote speech of the opening session. He talked about issues and challenges of researching on youth. There was also a panel discussion where government and academic representatives from different South Asian countries discussed respective youth policy agenda. Let me now reflect from discussions at the conference as they culminated into possible policy agenda for rights and empowerment of the South Asian youth.

### Youth Citizenship and State

To begin with, youth citizenship and their accessing of state are at critical juncture in most of the region's countries. State machineries are not sufficiently aware of and equipped to effectively deal with youth issues. But youth expectations from state are growing and they are increasingly trying to push their demands through political and administrative channels. Such gap between demand and supply sometimes lead to social and political tensions. Sanjay Kumar of CSDS, New Delhi said that youth is emerging as a political category in India. They are interested in youth leadership as evident from their greater support for younger candidates in election over the older ones. But their voter turnout is low. There is lower turnout of youth compared to voters of other age groups consistently over last 15-20 years. Again, young women vote lesser than young men and the urban youth show more interest in politics than the rural youth. About youth and state in Sri Lanka, Dr. Harini Amarasuriya of Open University, Colombo said that historically active political engagements of youth were often violent and hence something feared. Young students were the main drivers of two major insurrec-

tions in the country: JVP insurrection in the south in 1970s and LTTE insurrection in the north in 1980s. In between there were other student led movements. The insurrections and movements saw violent clashes between youth and authorities. There was also violent response from government that led to arrest, killing and disappearance of youth. Campus based youth politics is now suppressed. Independent student unions are disbanded and university students are sent to military camps for leadership training. But the political rationale of violent youth movement hasn't totally withered. Such movements were mostly rooted in resistance to erosion of welfare state system under neo liberal prescription. But that process is still continuing causing increasing marginalization of the non elite. Martin Daltry from British Council Islamabad talked about youth citizenship in Pakistan. The country is often making headlines for violence and religious extremism that is creating negative publicity especially for its youth. The dissatisfaction at the back-drop is revealed from a British Council study of Pakistan youth where they are most worried about injustices and oppressions suffered as citizens, where 30% identify injustice as cause of violence and 28% name poor education. Only one tenth of youth have faith in government and overall they feel forgotten or refused by international community.

Syeda Salina Aziz and Kazi Haque discussed about Bangladesh. Their paper was based on Bangladesh Youth Survey (BYS) dataset. Their findings see that

youth are interested in voting and that interest grows



with their growing age. But political participation other than voting like memberships of political parties, associations or groups is significantly lower. There is strong conviction about free and fair elections. Voting decisions are made mainly on the basis of the candidates' commitment to youth and local issues not on suggestions of friend and family or party affiliation. Youth are open and candid about institutional performance and in doing so they emphasized on efficiency and service delivery.

-To be continued

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