

Education is our right and not a commodity

Like other ordinary days, I was reading the newspapers and my eyes stucked into news that government has proposed to levy 10 percent VAT on private universities, private medical and engineering colleges.

When we were taught about human rights, we came to know about need based approach, charity based approach and rights based approach to secure rights. All these three approaches are considered as the mechanisms for a modern nation state to run its daily affairs.

Now, the question is which approach should the state follow while ensuring human rights to its citizens? Need based approach is a temporary solution that are followed during emergency time usually. Charity based approach is a kind of top down approach which often undermines the people as a source of all the power in a democratic state. But the Rights based approach always says that the State or the government shall respect and abide by the internationally settled norms and principles of human rights in each and every decision of the State. In this sense, the State cannot adopt any rules or regulations that hamper or curtail enjoyment of any right. People are empowered to demand for

Following our Constitution and UN Charter (Bangladesh is signatory to it), it is clearly evident that Bangladesh is not only bound to respect the "Rights Based Approach", but also is bound to promote



and implement internationally settled principles and norms of human rights in every sphere of the State affairs. That is why; right to education under the Article 26 of the Universal Declaration of Human Rights and Article 13 of the International Covenant of Economic, Social and Cultural Rights (ICESCR) should be followed by Bangladesh government as well.

Unfortunately, according to our Constitution, "Right to Education" is neither considered as a fundamental human rights and nor it has any judicial enforceability, which means we cannot approach to a regular court if my right to education is curtailed or if any decision taken which is detrimental to the enjoyment of it. According to the article 15 of our Constitution, it is merely known as "basic necessities" and State will take effective measures to promote educational needs of the society under the Article 17. But, according to Article 8(1) of the Constitution, these principles in Article 15 and 17 shall be applied by the State in the making of laws and shall be a guide to the interpretation of the Constitution and of the other laws of Bangladesh. Moreover, if we take the essence of Masdar Hossain case which was decided in 1999, the State cannot bypass the obligations to follow the fundamental principles of state policies that are enshrined in Part II of the Constitution.

Education should be considered is a "human right", not is a commodity. Moreover, according to the Section 41, 42 and 44 of the Private University Act, 2010, private universities cannot collect and spend any fund except promoting education, thus are non-profit entities. But, Value Added Tax (VAT) is considered a form of consumption tax. Now, questions arises like, are the private universities are consuming a commodity? Is Education a commodity, or is it a right? If education is a human right, then can we levy 10 percent VAT on that? Does that decision comply with above mentioned national and international laws, norms and principles? The answer is simply no. Our government neither can impose VAT on "right to education" considering private university education as a commodity, nor is it allowed to derogate from the principles laid in our Constitution, UN Charter, UDHR, ICESCR etc. Any attempt like that shall be protested and stopped by the citizens. As government is failing constantly to provide free education to us, despite losing billions of dollars in wrong policies, corruptions, fancy projects; it should not interrupt any private initiative to promote this very basic rights of the mankind.

Md. Saimum Reza Talukder

Lecturer, Department of Law, East West University