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Realising the Right to Development in Bangladesh: Progress and Challenges

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By signing and ratifying various human rights instruments, the State of Bangladesh has committed itself to pursuing socio-economic policies in a way that would promote its people's right to development, understood as integrated realisation of the whole range of human rights—including economic, social and cultural rights on the one hand and civil and political rights on the other. But does the development policy of Bangladesh actually conform to the demands of the right to development? This is the question investigated in the present paper. The paper first develops a methodology for answering the question, and then applies it to three specific rights—viz., the right to food, the right to health and the right to education—by drawing upon three case studies on the realisation of these rights in Bangladesh. The investigation finds that while Bangladesh can claim to have made a lot of progress in each of the three areas in terms of standard socio-economic indicators, serious deficiencies remain when judged by the criteria of human rights norms. The major areas of concern relate to the principles of equity, participation and accountability. Although successive governments have paid lip service to all three of these principles, the policies they have pursued in practice have actually undermined them more often than not. Fundamental reorientation is needed in the way the government functions before the development policy of the State of Bangladesh can be said to conform to the demands of the right to development approach.

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I. INTRODUCTION

The idea of the right to development first emerged in the 1970s in the context of the North-South dialogue and the call for a New International Economic Order. The principal motivation of those who championed this right was to establish a claim on the assistance and cooperation of the developed world of the Northern hemisphere for accelerating the pace of economic development in the South. The confrontational nature of the North-South dialogue, however, hindered the universal acceptance of the new concept. Subsequently, as the global political climate changed, and the element of North-South confrontation receded into the background, the concept re-emerged in the 1980s with a new focus. At this stage, the movement to establish the right to development converged with another movement that was already under way in the human rights community to close the schism that had appeared during the cold war era between civil and political rights on the one hand and economic, social and cultural rights on the other. The right of development began to be seen as a way of merging these two sets of rights into a holistic approach to development in which "all human rights and fundamental freedoms can be fully realised." These efforts culminated in the UN General Assembly adopting the *Declaration on the Right to Development* (RTD Declaration) in December 1986 (UN 1986).

Although the adoption of the RTD Declaration was based on the support of a majority of the nations, it did not command complete consensus. The legacy of North-South confrontation stood in the way. In the following years, concerted attempts were made to build up that consensus in a number of international conferences and negotiations, culminating in the *World Conference on Human Rights* held in Vienna in 1993. The *Vienna Declaration and Programme of Action* finally reached a political consensus to recognise the right to development as a universal and inalienable right and as an integral part of the fundamental rights of a human person (UN 1993).

The RTD Declaration, however, has not yet been converted into a treaty. This means that the commitment of nations to realise the right to development is not strictly legally binding. Nevertheless, by adopting the Declaration and by reiterating the right to development in many subsequent international fora, the majority of nation states have morally bound themselves to implement it.[1]

[1] In the jargon of international human rights law, the commitment to the right to development is seen to belong to the realm of "soft law" as distinct from "hard law" but to constitute a legal commitment nonetheless. For excellent review of the current state of the legal debate on the right to development, see Kirchmeier (2006) and Marks (2008).

As a signatory to the *Vienna Declaration*, the State of Bangladesh has committed itself to implementing the *Declaration on the Right to Development* adopted by the United Nations in 1986. Although neither of these two Declarations has the legally binding status of a Treaty, the moral force of the universal consensus underlying the Vienna Declaration enjoins upon the State the obligation to fulfil the commitments laid out in these Declarations. Besides, Bangladesh has actually made legally binding commitment to implement various aspects of human rights that together make up the concept of the right to development. Thus, it ratified the crucial *International Covenant on Economic, Social and Cultural Rights* (ICESCR) in 1998, and the *International Covenant on Civil and Political Rights* (ICCPR) in 2000 (*albeit* with some reservations in both cases). It has also ratified other important Conventions, including the *International Convention on the Elimination of all Forms of Racial Discrimination* (CERD), the *Convention on the Elimination of all Forms of Discrimination against Women* (CEDAW), and the *Convention on the Rights of the Child* (CRC). In addition, by signing the Declarations of various world summits on specific issues such as food security, health, and education, Bangladesh has undertaken to strive towards achieving universally agreed goals in these areas. Although Bangladesh has yet to ratify the *International Covenant on Civil and Political Rights*, it has ratified a number of Conventions on various elements of civil and political rights.

The objective of the present paper is to assess the extent to which the development policies pursued by the State of Bangladesh conform to the demands of the right to development. It is not being assumed that all or even most the policies and programmes of successive governments have been consciously followed bearing the commitment to human rights in mind. In fact, the working hypothesis is that economic and social policies have been framed in Bangladesh, as in most other developing countries, more from the traditional developmental perspective rather than from the human rights perspective. It is nonetheless important to see how those policies and programmes, whatever their motivation might be, measure up by the standards of human rights norms. To the extent that the analysis reveals a gap between the country's developmental performance and government's human rights obligations, this will provide the right-holders a basis for making specific demands for fuller realisation of their human rights.

Although the right to development is a comprehensive concept, embracing the full range of human rights, for the sake of manageability the present study pays particular attention to three of the most basic rights—namely, rights to food, health, and education. The methodology of this assessment is spelled out in the next section.

II. THE METHODOLOGY OF EVALUATION

The methodology of evaluating socio-economic policies from the perspective of human rights is in a state of evolution. It is clear, however, that this methodology would have to be different from the standard methodology of policy evaluation in a number of important ways. The standard methodologies are almost exclusively concerned with costs and benefits defined in narrowly economic terms. These concerns are also relevant from the human rights perspective, because after all the fulfilment of most rights will require the use of economic resources and efficient use of those resources will also be instrumentally important for realising rights in the most efficient manner. However, the rights-sensitive methodology must go beyond these concerns. It would be important to ask, for example, whether the processes of policy formulation, implementation and monitoring are consistent with the requirements of the right to development, and whether the goals and targets set by policies are in conformity with the targets to which the State has committed itself in the process of ratifying various human rights instruments.

For such a broad-based evaluation to be possible, it is first necessary to identify what are the requirements, or characteristics, of the right to development approach to economic policies. The very concept of right implies a corresponding obligation on the part of some duty-bearer to do its best to realise the right. In theory, a duty-bearer is anyone who is in a position to contribute towards the fulfilment of a right, but in practice it is the nation states that are seen as the principal duty-bearer. Therefore, in order to assess how far the right to development is being realised in a particular State, it is first necessary to understand precisely what obligations on the part of the State are implied by this right. The nature of those obligations could then be described as the necessary characteristics of the right to development approach to policy-making, and actual policies and programmes would then be judged by the yardstick of those characteristics.

A good place to start for this purpose is the formal definition of the right to development as given in Paragraph 1 of Article 1 of the 1986 Declaration on RTD: "The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised." Several characteristics of the right to development approach follow logically from this definition.

(1) Since the motivation behind proclaiming the right to development is to ensure equitable and sustainable enjoyment of the fruits of development by all segments of the society, only those developmental policies are acceptable that lead to such equitable outcomes (in a sustainable manner).

Therefore, the right to development implies the obligation on the part of the State to adopt a particular process of development, which in the specific context of a society leads to the desired equitable and sustainable outcome.

(2) The right to development is not merely a sum of individual rights, but rather a genuine integration of the full range of rights that must take note of the complementarities among individual rights. Therefore, the right to development entails the obligation to adopt policies that exploit these complementarities to the fullest extent possible.

(3) Some policies and processes lead to fuller realisation of economic rights only by violating political and civil rights (as in the case of benevolent dictatorships, insofar as they actually exist in the real world). This is not acceptable in the context of the right to development since political and civil rights are integral parts of this right. Therefore, the right to development implies the obligation to pursue a process of development that does not violate one kind of right in order to fulfil another.

(4) It is not enough that everyone should enjoy the outcomes or fruits of development equitably and sustainably. People must also be able to participate in and contribute to the process of development that leads to those outcomes, and also be able to hold the duty-holders accountable for any failure to discharge their obligations. Therefore, the right to development implies the obligation to ensure a process of development that satisfies the principles of participation, transparency and accountability.

As an organising device, it is useful to discuss the major characteristics of the right to development approach to policy making in the context of three stages or aspects of a policy regime, viz. (a) the process of policy formulation, (b) the content of policies, and (c) monitoring of policy implementation. For a policy regime to pass the test of the rights-based approach, each of these aspects would have to display certain characteristics.[2]

[2] There is a subtle difference between the rights-based approach to development and the right to development approach, which we mostly ignore for the purposes of the present study. One obvious difference is that the former can address either a specific human right or a broad range of rights, whereas the latter by definition embraces the whole spectrum of human rights. The distinction gets blurred when the process of development is itself subjected to a rights-based evaluation since such an evaluation must necessarily involve considering the whole spectrum of rights. For more on the distinction, see Osmani (2003, 2005a).

Without trying to be exhaustive, some of the major characteristics are discussed below.[3]

Characteristics of the rights-based process of policy formulation

One of the most important characteristic features of a rights-based approach to policy formulation is that it should be participatory in nature. In particular, the population groups that are affected directly or indirectly by a particular policy should have a say in the nature of policy that is formulated.

It is recognised, however, that the affected people may not always be able (or even willing) to participate directly in discussions on all the details of all kinds of policies. Some policies may be more amenable to direct participation—for example, those that are formulated at the community level through some form of local-level governance. In other cases, participation can only be indirect, through representatives—elected or otherwise. So participation will necessarily be diverse in form and shape, but the essential point is that there must exist institutions (legal and otherwise) that allow genuine participation of the affected people in the shaping of policies.

For genuine participation to be possible, however, certain preconditions must be met and certain other rights must be fulfilled.[4] The essential precondition is that the ordinary people must be empowered to claim their rights and to participate effectively in the decision-making process. The process of empowerment can itself be quite complex and time-consuming because of the deep-rooted nature of the asymmetries of power that exist in most societies. Sympathetic agents, such as civil society organisations, may have to invest in years of conscientisation and other grass-root level activities so as to help empower the disadvantaged groups. For this to be possible, however, the State must create an enabling environment in which civil society organisations can flourish.

[3] The requirements and characteristics of the right to development approach have been elaborated by Arjun Sengupta, the first Independent Expert on the Right to Development, through his various reports and essays. See, in particular, Sengupta (1999, 2000, 2001, 2002a, 2002b) among his reports and Sengupta (2004, 2009) among his essays. On the present author's own views on the right-based approach to development in general and the right to development approach in particular, see Osmani (2000, 2003, 2005a). In the specific context of poverty reduction, the demands of the human rights approach have been elaborated in OHCHR (2004, 2006) and Osmani (2005b, 2010).

[4] Based on a review of international evidence as well as conceptual reasoning, the preconditions for successful participation, especially in local-level decision-making processes, have been identified in Osmani (2008a).

The creation of such an enabling environment is in turn contingent on the fulfilment of a range of civil and political rights. These include the right to information, the right to freedom of expression, the right of association, and the right of equal access to justice. Since empowerment is not possible without the fulfilment of these rights and since effective participation is not possible without empowerment, taking measures to fulfil these rights is also a characteristic feature of the rights-based approach to development.

Characteristics of the contents of rights-based policies

The contents of policies refer here to the goals and targets that are set by the State, the resources that are committed for the realisation of those targets, and the methods that are adopted to achieve them. An important set of contents relate to the issue of prioritisation in the use of scarce resources. It is recognised by the human rights instruments that setting targets and committing resources for them will necessarily involve setting priorities, which in turn will involve consideration of trade-off among alternative goals. Both these acts of setting priorities and accepting trade-offs must necessarily involve some value judgements. For a policy regime to be consistent with the rights-based approach, these value judgements must be shaped by the human rights norms. The principles set out in various human rights instruments and the deliberations of various treaty bodies provide the normative framework from which one can derive the value-judgements that are consistent with the rights-based approach. This has several implications for the characteristics of policy contents.

First, since the human rights norms emphasise the principles of equity and non-discrimination, the goals and resource commitments laid down by the policies must give special consideration to the interests of the most deprived and the most vulnerable individuals and groups.

Second, the goals and targets set by the State must conform to those set by various human rights instruments and elaborated by the relevant Treaty Bodies. In particular, the State must ensure immediate fulfilment of a set of minimum targets that have been identified as “core obligations” of the State. Only the obligations not specified as core can be subject to progressive realisation.

Third, while trade-offs are unavoidable, it must be noted that the human rights normative framework explicitly disallows certain kinds of trade-off. For example, the core obligations must be fulfilled as a minimum requirement—these cannot be traded off for the sake of any other rights. More generally, the balancing of different kinds of right must satisfy the principle of “weak vector dominance,” which requires that in trying to improve the level of enjoyment of any particular right, it is

not permissible to reduce the absolute level of enjoyment of any other right. This implies, in particular, that it is not permissible to deny people their civil and political rights in the name of pursuing their socio-economic rights.

Fourth, the contents of policies must be guided not only by possible trade-offs between rights but also by possible complementarities among them. The complementarity may arise from the fact that the realisation of certain rights (e.g. the right to health) may be facilitated by simultaneous fulfilment of some other right (e.g. the right to education). For this reason, it is important to adopt an integrated approach towards the realisation of various rights within a single comprehensive plan of action—taking note of trade-offs as well as complementarities among rights—rather than deal with each right separately. It is this characteristic of taking an integrated approach towards rights that distinguishes the "right to development" approach from what might be called a "rights-based approach to development."

Characteristics of rights-based monitoring of policy implementation

Monitoring and evaluation of performance is a necessary part of any kind of policy-making, rights-based or otherwise. But the characteristic feature of the rights-based approach is that it emphasises the notion of accountability in a way that traditional approaches do not.

As noted earlier, the very notion of rights implies the notion of duties or obligations. For example, when a State ratifies a treaty that enshrines the right to food, it undertakes an obligation to fulfil that right (albeit, through progressive realisation). This implies that the reason why the State is supposed to adopt appropriate policies for fulfilling various rights is not merely that it is desirable for the State to pursue these goals out of its goodwill or benevolence but that it has a duty to do so. But a duty can only be meaningful if the duty-bearer can be held accountable for failing to perform its duty. The need to ensure accountability is, therefore, centrally important for the rights-based approach to development.

The duty of the State in respect of any right is of three kinds: the duty to respect, the duty to protect, and the duty to fulfil. [5] The duty *to respect* entails that the State must not obstruct anyone's effort to meet his or her needs within the rule of law. The duty *to protect* requires the State to protect a person if a third party tries to violate the rights of that person. The third and final obligation, viz. the duty *to fulfil*, has two components—the duty *to facilitate* and the duty *to provide*. The duty *to*

[5] This classification of State obligation was first introduced into the human rights literature by Eide (1989) in the context of the right to food, but is now used more generally for assessing the realisation of all kinds of rights, including civil and political rights.

facilitate means that the State must pro-actively engage in activities designed to enhance people's ability to meet their own needs and thus move towards fuller realisation of their rights. The duty *to provide* entails that when people unable to provide for themselves for reasons beyond their control (for example, old age, infirmity, displacement by wars or natural disasters, etc.), the State must directly provide them with goods and services such as food, education, healthcare, etc. The rights-based approach to development demands that it must be possible to hold the State accountable for each element of these duties. The emphasis on accountability in turn entails that the process of monitoring of policy implementation must possess a number of characteristics.

First, there must exist mechanisms through which the culpability of the State can be assessed in case of failure to adopt and implement appropriate policies and sanctions can be imposed if it is indeed found culpable. These accountability mechanisms can be of various kinds—formal or informal, judicial as well as non-judicial. The details of the mechanisms could vary from country to country depending on their history, traditions and culture.[6]

Second, accountability procedures must be participatory in nature so that citizens, especially those directly affected by policies, are able to hold the State accountable for its actions.

Third, by signing various treaties, the State has agreed to make itself accountable to different treaty bodies, thereby subjecting itself to some form of external accountability. These procedures set up by the treaty bodies to ensure such accountability must be adhered to.

Fourth, since the duty to fulfil rights falls in part on the world community at large, there must also exist procedures to hold the external actors—such as the donor community, international NGOs, multi-national corporations, etc.—accountable for their role in influencing the realisation of rights of any country's citizens.

[6] There is a point of view which suggests that accountability cannot really be ensured unless the commitments made by the State are made justiciable so that redress can be obtained through a court of law in case of failed commitments. This view is contestable. While legal sanctions would indeed have the desired effect, other less formal and non-judicial mechanisms need not be entirely ineffective. Sometimes simple mechanisms that do no more than name and shame the duty-bearers who have failed to perform their duty may serve the purpose well enough. For a forceful exposition of the argument that even without justiciability the idea of human rights, and the associated idea of accountability, can be both conceptually meaningful and practically useful, see Sen (2004).

Finally, it must be noted that certain correlated rights—such as the right to information, the right to free speech, the right to access to justice, etc.—that were argued to be important for effective participation are also essential in the context of accountability. Without the fulfilment of these rights, it will be impossible to make accountability—especially internal accountability—effective.

Progressive realisation of rights

An important characteristic of the rights-based approach, not fully captured by the three-stage formulation of the policy process discussed above, is that in setting goals and targets, and in committing resources for their achievement, due attention must be given to the notion of progressive realisation of rights. The discourse on human rights recognises that, in view of pervasive resource constraints, many rights —especially the rights to food, health, and education with which the present study is specifically concerned—can only be fulfilled over a period of time in a progressive manner. Thus, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) affirms, "Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures" (UN 1986, Article 2.1).

However, the recognition of the need for progressive realisation does not give the State a license to defer or relax the efforts needed to realise rights. As the Treaty Body on the ICESCR cautions in its *General Comment* no. 3 (1990): "…The fact that realization over time, or in other words progressively, is foreseen under the Covenant should not be misinterpreted as depriving the obligation of all meaningful content. It is on the one hand a necessary flexibility device, reflecting the realities of the real world and the difficulties involved for any country in ensuring full realization of economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the raison d'être, of the Covenant which is to establish clear obligations for States parties in respect of the full realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal. Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources" (CESCR 1990, para. 9).

In order that the idea of progressive realisation of rights does not become a smokescreen behind which the State can conveniently hide its failure to discharge its

obligations, the State must ensure that its efforts are satisfactory in some well-defined sense. In particular, the process of progressive realisation will have to possess the following characteristics.

First, the State must begin immediately to take steps to fulfil the rights as expeditiously as possible by developing and implementing a time-bound plan of action. The plan must spell out, *inter alia*, when and how the State hopes to arrive at the full realisation of rights. Second, the plan must include a series of intermediate—preferably annual—targets. These intermediate targets will serve as benchmark, against which the success or failure of the State will be judged. For this purpose, the State will have to identify some indicators in terms of which targets will be set. Realistic time-bound targets will have to be set in relation to each indicator.

These characteristics are essential for ensuring accountability of the State, without which the concept of right becomes indistinguishable from mere aspiration. Since the full realisation of the most socio-economic rights can only be over a time period that typically exceeds the tenure of most governments, the only way to hold them accountable is in terms of the policies and intermediate targets they are required to formulate as part of a coherent plan to move towards the goal of full realisation. Corresponding to the rights to be achieved in a, possibly, distant future, people have currently a derived right to these policies and intermediate targets, and the State is obliged to formulate them, achieve them, and be accountable for them.[7]

An important implication of the idea of progressive realisation of rights is that, contrary to a popular misconception, it highlights the importance of economic growth in the context of the rights-based approach to development. If the States are to move "as expeditiously and effectively as possible' towards the goal of full realisation of rights, as the *General Comment no. 3* demands, they must try to expand their resource base as quickly as possible, and that requires taking growth seriously. Thus, growth, far from being an irrelevance or even a hindrance to the rights-based approach to development, as some people tend to think, is an essential requirement of this approach. The difference with the traditional emphasis on growth, however, is that the drive for growth must be balanced against all the other requirements of the rights-based approach discussed above.

[7] What we have called a "derived right" here has been described as a "meta-right" by the first *Independent Expert on the Right to Development* drawing upon an earlier formulation by Sen (1982). The difference in nomenclature notwithstanding, the essential idea is the same. As the reports of the Independent Expert have repeatedly emphasised, this concept is of immense practical importance since it is on the basis of the policies and intermediate targets that governments will be judged in the short to medium term, which is the relevant time frame for all practical purposes.

The preceding discussion has identified a number of characteristics of a rights-based approach to policy-making. The present study seeks to assess the extent to which these characteristics are satisfied by the policies and programmes that exist in Bangladesh with regard to three basic rights—namely, the rights to food, health, and education. Following the three-stage classification of policy regime discussed above, we shall discuss the contents of policies from the human rights perspective in sections IV, V and VI, devoted respectively to the right to food, the right to health and the right to education. The approach in each of these sections is first to extract from the human rights instruments the detailed obligations (on the part of the State) the respective right entails and then to examine government's programmes and policies in that light. Section VI will look at the process of policy formulation and the mechanisms for monitoring of policy implementation (of all three rights) from the human rights perspective. The record of progressive realisation of rights—specifically with regard to the rights to health and education—will be discussed in section VII. But first we begin by providing an overview of the Bangladesh economy since Independence as a general backdrop to the rights-based analysis that follows.

III. A BRIEF OVERVIEW OF THE BANGLADESH ECONOMY[8]

The economy of Bangladesh has come a long way since the country achieved its independence at the end of 1971. The ravages of a prolonged war of Liberation, combined with natural calamities, wrought havoc to the economy soon after independence—so much so that the very viability of the economy came to be questioned at home and abroad. Over the next three decades and a half, the economy has not only survived, it has even begun to show signs of sustained vibrancy.

It took almost the whole of the 1970s to reconstruct and rehabilitate the war-ravaged economy, with per capita income crawling back to the pre-independence level by the early 1980s. Since then, a good deal of progress has been made in both economic and social spheres. The most basic achievement relates to economic growth, which is a necessary pre-condition for achieving progressive realisation of rights as expeditiously as possible. Bangladesh's rate of growth is not spectacularly high, especially in comparison with the rates achieved by the high-performing countries of East and South-East Asia. But the sustained acceleration that Bangladesh has achieved in its rate of growth is an encouraging phenomenon in its own right.

[8] The discussion in this section draws heavily on Osmani (2008b, 2008c, 2009) and Osmani *et al.* (2006).

After the recovery of the 1970s, the rate of growth of GDP fluctuated in the 1980s around a lowly 3.7 per cent, but since the onset of the 1990s the economy has started to grow at an accelerating rate. The average annual growth rate first jumped to 4.8 per cent in the 1990s, and since 2000 it has accelerated further to over 6 per cent in some years but with an average of just under 6 per cent for the decade of the 2000s as a whole (Table I).

Rapid rise in income growth has been accompanied by a sharp decline in population growth, brought about by a drop in fertility that is quite remarkable for a country at such a low level of income. As a result, the acceleration of growth in per capita income has been even more impressive.[9] From an average of 1.7 per cent in the 1980s, the growth of per capita income jumped to 3.0 per cent in the 1990s and jumped again to 4.4 per cent in the 2000s. Since 2005, per capita income has been growing at more than 5 per cent per annum, representing a three-fold increase compared to the 1980s. The end result of all this is that the current generation of Bangladeshis is almost exactly twice as rich as was the preceding one.

This may not seem special in comparison with some of the Asian miracle economies that have managed to double their per capita income in one decade or less, but it is easy to forget the dismal initial conditions in which Bangladesh began its journey in 1971. It is also worth noting that Bangladesh's growth in recent decades compares highly favourably with the rest of the world other than Asia. For instance, the 4.5 per cent growth rate that Bangladesh achieved during the twenty-five year period from 1980 to 2005 is distinctly higher than the 3.6 per cent rate achieved by the Middle-East and North Africa region, 2.6 per cent by sub-Saharan Africa and 2.3 per cent by Latin America and the Caribbean during the same period.

The growth acceleration that has occurred in Bangladesh since about 1990 has been underpinned by faster rate of capital accumulation.[10] From less than 10 per cent of GDP in the 1970s the rate of investment rose to about 17 per cent in the 1980s and further to 20 per cent during the 1990s and 24 per cent in the 2000s

[9] The acceleration in per capita GDP growth owes itself both to a slower rate of population growth and a faster rate of GDP growth. It is the latter, however, that has played the predominant role. Thus, out of the 2.8 percentage point acceleration in per capita income growth that has occurred between the 1980s and the 2000s, as much as 2.1 percentage points has come from faster GDP growth and 0.7 percentage point from slower population growth (Table I). Thus three-fourths of the acceleration is attributable to faster growth of GDP and one-fourth to slower growth of population.

[10] A recent exercise in growth accounting has shown that the growth acceleration of the 1990s owed itself primarily to faster capital accumulation and secondarily to productivity growth (Mujeri and Sen 2002).

(Table I). Admittedly, the current rate of investment in Bangladesh is far below the likes of 40 per cent rates achieved by the hyper-growth economies of East Asia, but such comparisons must be tempered by an appreciation of the initial conditions. Throughout the 1970s, the country was barely able to meet its consumption needs from its own resources, leaving specious little for savings and investment—just over 1 per cent of GDP was saved and barely 10 per cent was invested during this period. For that country to come to a stage where within a space of three decades nearly a fifth of GDP is being saved and invested is no mean achievement.

The amount of investible resources has been further augmented by the spectacular rise in remittances, which has allowed the national savings rate to exceed the domestic savings by a fair margin. All this has enabled Bangladesh to achieve a rate of investment that was unthinkable only a couple of decades ago.

What makes this improvement in investment rates especially remarkable is the dwindling role of foreign aid in providing investible resources for Bangladesh. In the 1970s, when the country started from the scratch, foreign aid loomed large in all spheres of the economy, accounting for more than 80 per cent of gross investment on the average. Even in the 1980s, the contribution of foreign aid to gross investment was still close to 40 per cent; by the 2000s, however, it has came down to just over 10 per cent.[11] It is thus evident that the country has managed to accelerate its rate of capital accumulation while at the same time substantially reducing its dependence on the rest of the world for financing its investment. As a result, Bangladesh can claim today to have not only a faster rate of growth than before but also a more self-reliant growth as far as mobilisation of investment resources is concerned.

A related feature of Bangladesh's growth performance is the ease with which it has achieved its growth acceleration without getting into the kind of debt trap that many of the developing countries have found themselves in since the 1980s. In the last three decades, the stock of external debt has hovered between 30 and 35 per cent of GDP in most of the years. This ratio is not particularly low compared to other developing countries, but the important point is that thanks to the low cost at which Bangladesh received these loans the debt servicing burden has remained especially low by international standards. In the first half of the 2000s, debt servicing accounted for a just over 1 per cent of GDP and less than 7 per cent of

[11] As a percentage of GDP, foreign aid has come down from 8 per cent in the 1970s to 6.3 per cent in the 1980s and a mere 2.5 per cent in the 2000s. It is also worth noting that even though the absolute amount of foreign aid has not declined (in current dollars), it has actually declined in per capita terms—from about 14 US dollars per person in the 1980s to just over 10 US dollars in the 2000s.

export earnings. By contrast, during the same period, low and middle income countries as a whole faced a burden amounting to nearly 6 per cent of GDP and 17 per cent of export earnings.

TABLE I
MACROECONOMIC EVOLUTION OF BANGLADESH: 1970S TO 2000S
(DECADAL AVERAGES)

	1970s	1980s	1990s	2000s
Annual growth rates				
Population	2.40	2.01	1.70	1.32
GDP at market prices	3.79	3.72	4.80	5.88
GDP per capita	1.39	1.68	3.05	4.43
Consumer prices (Inflation)	22.12	10.32	5.69	5.90
Percentage of GDP				
Gross investment	9.48	16.74	19.72	24.02
Private investment	4.45	11.26	12.98	18.23
Public investment	5.03	5.48	6.74	5.79
Gross domestic savings	1.05	11.61	15.06	19.51
Gross national savings	5.22	17.01	20.36	26.78
Total budgetary revenue	2.98	6.53	8.98	10.65
Tax revenue	2.44	5.32	7.19	8.51
Total budgetary expenditure	5.14	12.64	13.73	15.13
Current expenditure	2.25	5.28	6.96	9.22
Development expenditure	1.78	5.91	5.67	4.96
Budget deficit	2.31	6.11	4.74	4.49
Exports (of goods & services)	5.37	5.30	10.67	17.15
Imports (of goods & services)	13.80	13.55	16.28	23.55
Total trade(X+M)	19.17	18.85	26.95	40.69
Foreign aid inflow	8.17	6.31	4.18	2.54
Workers' remittances	0.97	2.64	3.23	7.59
Stock of external debt	17.86	31.84	38.72	30.72
Debt servicing	0.63	0.82	1.14	1.09

Source: Calculated from time series data compiled by the author from various statistical publications of the Government of Bangladesh and the World Bank, after making necessary adjustments for comparability, to the extent possible.

Note: (1) Data refer to the average of annual figures for each period.
(2) The 1970s refers to the period 1972/73 to 1979/80. For the 1980s, some variables relate to the 9-year period from 2000/01 to 2008/09; others relate to the whole 10-year period but the data for 2009/10 are provisional.

(3) For the 1970s and early 1980s, inflation figures are based on the average price index for several categories of people—viz., industrial and agricultural workers, middle class households in Dhaka, and government employees; for other periods, it is based on the national consumer price index.

(4) Budget deficit refers to overall budget deficit, before netting out foreign grants.

(5) Foreign aid includes both loans and grants.

The relatively low burden of external debt faced by Bangladesh owes itself mainly to the fact that historically the country has depended much more heavily on the less expensive foreign official assistance than on the more expensive commercial borrowing for financing its investment needs. The official foreign aid has itself become somewhat more expensive over time as the proportion of loans has increased at the expense of grants, but the loans have been offered at a sufficiently low rate to make the repayment burden far lower than anything that might have obtained with an equivalent flow of private capital. The relative absence of private capital has, of course, its flip side, as it implies a constraint on raising the rate of investment. But at least it has helped avoid on the one hand the short-term problem of volatility in capital movement that has plagued many emerging economies in the past decade and prevent on the other the kind of long-term debt problem that has blighted the development prospects of many countries of Africa and Latin America.

In addition to avoiding an excessive debt burden in the external sphere, Bangladesh has also managed to avoid excessive inflationary pressure in the domestic sphere—yet another scourge that often goes hand in hand with the pursuit of rapid growth. Bangladesh did experience a phase of relatively high inflation of around 22 per cent in the 1970s, but this was understandable in a period of economic reconstruction. Even in the 1980s, the rate was quite high at over 10 per cent. But in a significant departure from the experience of many developing countries, the rate of inflation came down just when growth began to accelerate. It fell to between 5 and 6 per cent during the two decades of growth acceleration in the 1990s and 2000s.

Relatively rapid economic growth since the early 1990s has brought about remarkable transformation in the structure of production. In particular, the economy has become increasingly industrialised, so much so that for the first time in history industry has come to contribute more to GDP compared to agriculture. The switchover from an agrarian to an industrial economy occurred at the turn of the last century. In the second half of the 1990s, agriculture and industry stood neck in neck, each contributing about 25 per cent of GDP. Industry, however, leapt ahead in the

2000s, when its share in GDP went up to 28 per cent as compared with agriculture's 23 per cent.

Within industry, both construction and manufacturing have shown dynamism. It is a remarkable fact that manufacturing alone now yields more to GDP than production of crops, the mainstay of the economy of this region for centuries. This transition is very much a post-2000 phenomenon. Towards the end of the 1990s, crop production was still contributing more than manufacturing, but their relative positions have reversed since the beginning of the new millennium. Thus, during the 2000s, the average contribution of manufacturing amounted to 17 per cent of GDP as against 13 per cent from crop production, indicating that Bangladesh has finally embarked on the path of "modern economic growth" *a lá* Kuznets.

The growth of manufacturing is also reflected in the external sector. The share of manufactures in the export basket has gone up from 72 per cent in the 1980s to 93 per cent in the 2000s. Export of garments and knitwear has replaced jute goods as the prime mover of export growth, contributing some 85 per cent of all export earnings during the 2000s.

The growth of manufacturing export, together with the move towards its diversification, has occurred during a period when the economy as a whole has become more open. This is evident from all measures of openness—whether defined as the trade ratio (i.e., the value of export plus import as a proportion of national income) or the degree of trade liberalisation (as measured by the removal of trade barriers). The trade ratio more than doubled from 19 per cent in the first half of the 1980s to 41 per cent during the 2000s. This increase in trade orientation was helped partly by the favourable external circumstances that allowed the garments sector to flourish and partly by the phenomenal growth of remittances, which together with rising export earnings made possible a rapidly rising volume of imports. But partly it was also helped by sustained efforts at reducing both tariff and non-tariff barriers to trade that started in the 1980s but gathered momentum in the early 1990s. During this process of trade liberalisation, a plethora of quantitative restrictions were removed, the tariff structure was vastly simplified, and the rates of tariff were drastically reduced.[12]

[12] In the mid-1980s, about 40 per cent of all import lines at the HS-4 digit level was subject to trade-related quantitative restrictions, but these restrictions were drastically reduced to less than 2 per cent by the mid-2000s (Raihan 2008). The number of tariff bands has come down from 18 in 1991/92 to just 5 by 2008/09. As a result of tariff reduction, the nominal protection rate (as measured by import-weighted average tariff rate) has come down from 24 per cent in the early 1990s to just 7 per cent during 2008/09 (GOB 2010).

To what extent trade liberalisation has contributed to the growth and diversification of manufactured exports is difficult to say as it is hard to disentangle its effects from those of such exogenous factors such as the trade policies and economic cycle of the rest of the world. One could, however, make the minimalist claim that liberalisation is very likely to have made a positive contribution in this regard by reducing the incentive for pervasive import substitution.[13]

Accelerated economic growth has been accompanied by accelerated decline in income poverty.[14] According to the nation-wide *Household Income and Expenditure Surveys*, the proportion of population living below the poverty line was as high as 71 per cent in 1973/74, the earliest such survey carried out after the country's Independence. In the 1980s, when growth was slow, the rate of poverty reduction was also very slow; however, as growth picked up in the 1990s, so did the pace of poverty reduction (Table II). In contrast to the virtual stagnation in the preceding decade, poverty declined by 10 percentage points during the 1990s—falling from 59 per cent in 1991/92 to 49 per cent in 2000. The rate of decline accelerated even further thereafter, as the poverty ratio fell to 40 per cent by 2005. This represents a near doubling of the annual rate of poverty reduction (in percentage points terms) as compared with the 1990s.[15] Both rural and urban areas have enjoyed substantial reductions in poverty, with rural poverty declining from 61 per cent in 1991/92 to 44 per cent in 2005 and urban poverty declining from 45 per cent to 28 per cent during the same period.

A number of factors have contributed to the acceleration of poverty reduction. First, although some of the major growth-propelling activities, such as the garments industry, are located mainly in the urban and peri-urban areas, their workers are drawn predominantly from rural areas. The remittances they send to rural relatives have played an important part in translating overall economic growth into rural poverty reduction. Second, rural areas have also gained almost as much as urban

[13] A recent econometric analysis demonstrates the existence of a positive relationship between trade liberalisation and export growth in Bangladesh (Dawson 2006). For a general analysis of the impact of trade liberalisation in Bangladesh, see Ahmed and Sattar (2004).

[14] Along with the reduction in income poverty, the people of Bangladesh have also enjoyed unprecedented expansion of human capabilities in such spheres as health and education. These are discussed in Sections V and VI. For a wide-ranging analysis of somewhat exceptional social development in Bangladesh and the processes underlying it, see W. Mahmud (2008).

[15] These estimates would vary depending on the methodology chosen for estimating poverty but the qualitative conclusion regarding the accelerating pace of poverty reduction would remain valid.

areas from the external remittances sent by Bangladeshi migrants working abroad. Third, even as the importance of agriculture in the national economy has declined, rural Bangladesh has witnessed a significant expansion in the range and scope of non-farm activities.[16] Evidently, benefits from this expansion have not remained confined to the better off population alone—the poorer segments have gained too. It is eminently plausible that the phenomenal expansion of microfinance, an area in which Bangladesh's pioneering role has been recognised worldwide, has played a crucial role in enabling the rural poor to both contribute to and benefit from the growth of non-farm activities.[17]

TABLE II
TREND OF POVERTY IN BANGLADESH: 1983/84 TO 2005
(PERCENTAGE OF POPULATION BELOW POVERTY LINE)

Year	National	Rural	Urban
1983/84	52.3	53.8	40.9
1991/92	49.7	52.9	33.6
1991/92	58.8	61.2	44.9
2000	48.9	52.3	35.2
2005	40.0	43.8	28.4

Notes and sources: Estimates for the two panels (1983/84-1991/92 and 1991/92-2005) are comparable within themselves but not between them, as they are based on different methodologies. The first panel is taken from Osmani *et al.* (2006) and the second from World Bank (2007).

In contrast to what has happened on the poverty front, a disconcerting trend is observed regarding the distribution of the benefits of growth. After remaining more or less unchanged in the first two decades after independence, income distribution worsened in the 1990s. Already in the 1980s inequality was on a rising trend but only mildly so; in the 1990s, however, inequality increased rapidly, with the Gini coefficient going up from 0.30 in 1991/92 to 0.41 in 2000. Thus the decade of accelerated growth and poverty reduction also witnessed rising inequality. The main

[16] Osmani *et al.* (2006, Table II.3) estimated that the share of non-farm income in total rural income had gone up from 26 per cent in 1991/92 to 43 per cent in 1999/2000, while the share of farm income fell from 53 per cent to 33 per cent during the same period.

[17] Evidence for the poverty-reducing effect of microfinance abounds in Bangladesh, even though it is hard to say what proportion of the overall decline in rural poverty can be attributed to it.

sources of increasing inequality lay in increasingly unequal distribution of non-farm income and remittance income from abroad.

What has happened since 2000 remains somewhat unclear. Official estimates based on consumption data show remarkable stability in inequality during 2000-2005, even suggesting, quite implausibly, that inequality has fallen in urban areas. By contrast, estimates based on income data reveal a mild increase in inequality. On careful examination of the consumption data used by the official estimates, a recent study has cast doubt on their plausibility and, after making suitable adjustments for data limitations, has come out with an alternative estimate of income inequality which confirms that inequality has maintained its rising trend since 2000 (Khan 2005).

On the whole, income distribution apart, the standard indicators of economic development suggest significant progress made by the Bangladesh economy over the last three decades. This is no mean achievement for a country that was once described as a "bottomless basket" and whose economic viability as a nation was doubted by many in the 1970s. It remains to be seen, however, how far the policies and programmes underlying this progress conform to the requirements of a right to development approach.

TABLE III
TREND OF INCOME INEQUALITY IN BANGLADESH: 1983/84 TO 2005
(GINI COEFFICIENT)

Year	National	Rural	Urban
1983/84	36.0	35.0	37.0
1991/92	39.0	36.0	40.0
1991/92	30.3	27.6	32.7
2000	40.5	35.6	43.7
2005	43.8	40.4	47.5

Notes and sources: Estimates for the two panels (1983/84-1991/92 and 1991/92-2005) are comparable within themselves but not between them, as they are based on different methodologies. The first panel is taken from BBS (2005) and the second from Khan (2005).

IV. ASSESSMENT OF POLICY CONTENTS: THE RIGHT TO FOOD

In the next three sections we analyse how government policies and programmes have succeeded or failed, as the case may be, to promote each of the three rights under consideration - namely, the right to food, the right to health and the right to

education. In each case, we first look at some quantitative measures of the extent to which progress has been made in fulfilling the right and then analyse how the contents of policies and programmes have impacted on various dimensions of that right. The present section focuses on the right to food. [18]

Assessment of progress in the realisation of any human right has to be based on an understanding of what kind of obligations that particular right entails. [19] A reading of the relevant articles of the ICESCR and subsequent elaboration of them in the *General Comments* by the Treaty Body on economic, social and cultural rights suggests that the right to food has two dimensions—viz. availability and accessibility. The right to food entails (i) availability of food in sufficient quantity and quality to satisfy the dietary needs of all individuals in a form that is culturally acceptable; (ii) accessibility of food in ways that are sustainable and do not interfere with the enjoyment of other human rights.

The "availability of food" refers either to the possibility of feeding oneself directly from productive land or other natural resources, or to the existence of a well functioning distribution, processing and market system that moves food from the site of production to where it is needed in accordance with demand.

The "accessibility of food" encompasses both economic and physical accessibility. "Economic accessibility" implies affordability—personal or household costs associated with the acquisition of food for an adequate diet should be at such a level that the satisfaction of other basic needs is not compromised. "Physical accessibility" implies that adequate food must be accessible to everyone, including the vulnerable such as women, children, the elderly, the sick, physically and mentally disabled, and victims of natural disasters and armed conflicts.

Bangladesh has made good progress in terms of both availability and accessibility of food, but a lot more remains to be achieved, especially in terms of accessibility. On the basis of aggregate data on production and imports, it would appear that for much of the period in the first two decades after independence, overall foodgrain availability just about kept pace with population growth, so that per capita availability has remained virtually stagnant. But production surged ahead in the second half of the 1990s, with the result that per capita availability jumped from an average of 163 kg per year in the first half of the decade to 173 kg in the second. Moreover, this was not just a one-shot increase, as per capita availability

[18] For the data, analysis, and detailed references that underlie the discussion in this section, see the paper by Shahabuddin in this volume.

[19] A concise discussion of the content of the rights to food, health, education and several other rights can be found in OHCHR (2006).

increased further to 198 kg during the first half of the 2000s and to 224 kg in the second half. This improvement was helped to some extent by a relative slowdown of population growth in recent years, but the major factor was rapid improvement in productivity driven by strong government support for the adoption of high-yielding technology.

Since foodgrains contribute around 80 per cent of total calorie intake in Bangladesh, one should expect similar trends in calorie availability as well. However, independent estimates of calorie intake, based on nation-wide household level expenditure surveys, reveal a somewhat contrasting picture. Data from successive rounds of *Household Income and Expenditure Surveys* show that per capita calorie intake increased continuously in the first two decades of independence but has virtually stagnated or perhaps declined marginally since then.[20] Thus, oddly enough, the period which saw rising availability of per capita foodgrain for the first time in the history of the country also witnessed stagnation in per capita calorie intake, reversing an earlier trend of rising intake. This oddity may be explained partly by the fact that the data on the availability of foodgrain and calories are obtained from very different sources, which may be subject to rather different kinds of error. But partly, this may also reflect a conscious decision on the part of consumers to diversify their food basket away from calorie-rich foods as per capita income rose.

Along with improvement in average availability of food, a good deal of progress has also been made in reducing fluctuations in availability. A number of factors have contributed to this reduction. First, domestic production has increased strongly enough to replace imports in normal years, which has helped reduce the country's exposure to the uncertainty of price fluctuations in world grain markets as well as to the uncertainty in foreign exchange availability. Second, liberalisation of import trade has made it possible to insulate the market much better than before against occasional supply shocks, such as a severe drought or flood. Third, seasonal fluctuations in price and availability have been considerably reduced—almost by half according to some estimates—because of expansion of irrigation in the dry season.

Thus, on the whole, achievement on the availability front has been quite satisfactory, especially for a country that was once dubbed as a "bottomless basket." At the same time, accessibility also appears to have improved i.e. more people can now afford to consume a satisfactory food basket. Several types of evidence point in

[20] Per capita intake of calories increased steadily from about 1990 Kcal in 1973/74 to 2266 Kcal in 1991/92, but has since been falling slowly, standing at 2239 Kcal in 2005.

this direction. First, real wages have gone up over the last three decades at the same time that underemployment has come down. The average real index has gone up from 87 in the first half of the 1980s to 138 in the first half of the 2000s, representing a 59 per cent rise over two decades. The index of agricultural wages, which is more representative of the poor people's earning power, increased less than the average. But it still rose by 46 per cent in the two decades from the mid-1980s to mid-2000s. This, together with the fact that the rate of underemployment has come down from 43 per cent in 1989 to 28 per cent in 2009, suggests that economic access to food must have increased for many poor people.[21]

Increasing economic access to food is also corroborated by trends in poverty, discussed in section III. Although poverty estimates vary somewhat depending on the methodology used, the general picture seems to be that after remaining virtually stagnant around the 60 per cent mark in the 1980s, poverty declined by about 10 percentage points in the 1990s—falling to 50 per cent by 2000, and by another 10 percentage points in the next five years—falling to 40 per cent by 2005. Since these estimates of poverty are based on the criteria of whether a household can afford to have adequate food without sacrificing essential non-food consumption, reduction of poverty *ipso facto* indicates higher accessibility to food on the part of the poor. However, the same estimates also reveal that somewhere around 40 per cent of the population still did not have adequate access to food (in 2005). Obviously, there is still a long way to go before the right to food is fully realised in Bangladesh.

This is especially true of Bangladeshi women, who are known to have a raw deal in intra-household distribution of resources, including food. For example, according to a nutrition survey carried out in the mid-1990s, the shortfall of calorie intake from a norm of requirement was much higher for women than men. The highest shortfall was noted for lactating and pregnant mothers whose calorie intake was deficient by as much as 30 per cent compared to their requirement, as against an average of 13 per cent deficit for a household as a whole (INFS 1998). The bias against female members in food intake becomes even more pronounced when comparison is made in terms of levels of intakes (as opposed to fulfilment of

[21] Although open unemployment has gone up from around 2-3 per cent to 4-5 per cent during this same period, it is arguable that this does not reflect on the poorer section's economic condition because the poor can hardly afford to remain openly unemployed in a country like Bangladesh, which does not have a functional social welfare system. The rise in open unemployment mainly reflects increasing tendency of educated youth from non-poor families to remain longer in search unemployment while faced with a mismatch between the skills they can offer and the skills the market demands. For the poorer people, underemployment is a better measure of their access to employment opportunities.

requirements in percentage terms). Moreover, male intake of all nutrients is substantially higher than that of female for all age groups, especially for females of reproductive age group.

Turning now to the impact of policies and programmes on the realisation of the right to food, we follow the strategy of assessing the extent to which the State has discharged its obligations with respect to food. Following the methodology discussed in section II, we may break up the obligations of the state into three parts —namely, the obligation to respect, the obligation to protect, and the obligation to fulfil.

In the context of the right to food, the obligation to respect requires the state to refrain from deliberately denying food to any individual or any segment of its population. This aspect of state obligation is mostly relevant in societies torn apart by civil strife, which is thankfully not a major problem for Bangladesh. There may be instances, however, where in times of natural disasters the government did not distribute food and other relief materials where they were needed most and was instead guided more by political considerations.

As far as the obligation "to protect" is concerned, the relevant issue is whether the State is protecting those whose right to food might be threatened by some third parties. This is turn leads to the question: in what way might any third party be threatening somebody's right to food? There are at least two possibilities one can think of that may be relevant in the context of Bangladesh. One possibility is that the village elite may unlawfully grab the land of the poor. In that context, the obligation would require the State to ensure proper land registration and enforcement of land rights. Another possibility is unlawful eviction of tenants or forcing the tenants to accept exploitative terms of contracts. The obligation to protect would then call for appropriate tenancy reforms.

There have been several attempts at land and tenancy reforms in Bangladesh but the provisions have remained in paper due to poor performance in implementation. Complicated land administration, in which ownership rights are recorded in different offices located in completely different executive processes, combined with poor maintenance of records has been a perennial source of litigation and harassment for resource-poor households, especially in the rural areas. Furthermore, absurd as it may seem, the law itself expressly forbids any crosschecks on the authenticity of land transaction. This leads to problem of falsification of records, which is perhaps the major factor behind the endemic nature of land disputes in

Bangladesh. It is the poorer and the weaker groups who almost always turn out to be the losers in these disputes.[22]

Tenants have traditionally been subject to extreme insecurity in rural Bangladesh since tenancy agreements are almost exclusively verbal in nature. In the absence of written agreements, the landlord can evict any tenant at his whim, thereby violating the right of tenants for earning his livelihood and ultimately his right to food. The *Land Reforms Ordinance* of 1984 made a beginning towards safeguarding the interests of tenants, but not with much success. The Ordinance was promulgated primarily with a view to maximising production and ensuring a better relationship between landholders and sharecroppers; enhancing the legal status and rights of sharecroppers was not its explicit purpose. Nevertheless, the Ordinance did take a bold move by according *de jure* status and rights, *albeit* heavily circumscribed, to the category of actual tillers who had seldom enjoyed any such status and rights in the modern era. However, given the existing distribution of power (legal and *de facto*) in rural Bangladesh, it proved almost impossible to enforce provisions of the Ordinance. Some have even argued that the main features of the Ordinance were written in such a way that would perforce render its principal provisions either unenforceable or meaningless (Jannuzi and Peach 1990).

Finally, turning to the obligation "to fulfil," we may begin by noting that this obligation has two components—the obligation "to facilitate" and the obligation "to provide." The obligation to facilitate means that the State must pro-actively engage in activities intended to strengthen people's access to and utilisation of resources to ensure their livelihood, including food security. In this context, the pursuit of a pro-poor growth strategy assumes special significance. With the introduction of *Poverty Reduction Strategy Papers* (PRSPs) in the present decade, the government can at least claim to be pursuing pro-poor growth as a deliberate strategy. The contents and implementation of this strategy are subject to serious disputations, but the fact that the rate of poverty reduction accelerated after 2000 is at least an encouraging sign. As noted in section III, the rate of poverty decline accelerated from one percentage point per year in the 1990s to two percentage per year during 2000-2005. The rate of economic growth was also of course higher in the latter period (rising from 4.8 per cent per annum to 5.4 per cent), but the rate of acceleration in poverty decline far exceeded the acceleration in growth. This suggests that the elasticity of poverty reduction with respect to growth increased markedly in the latter period, which is an essential condition for making growth more pro-poor.

[22] It has been estimated that up to 80 per cent of court cases in rural areas are related to these conflicts, which are often identified as a major cause of "downward mobility" of small and marginal farmers (unpublished BIDS Survey results).

The data and the methodology that underlie these findings are not beyond dispute,[23] but there is some corroborative evidence in support of these findings. First, the rate of underemployment declined faster during 2000-2005 than it did in the 1990s, implying faster increase in the employment opportunities for the poor in the later period.[24] Second, real wages increased faster during 2000-2005 than it did during the 1990s.[25] Faster increase in both employment and wages during 2000-2005 compared to the 1990s is perfectly consistent with faster decline in poverty in the later period.

Whether this trend can be sustained in future remains an open question, however. One worrying sign is continued rise in income inequality, which is rendering the growth process in Bangladesh progressively more unequal (section III). It is also a matter of concern that after declining over a long period of time the rate of underemployment seems to have risen in recent years—going up from 25 per cent in 2005/06 to 29 per cent in 2009. The overall conclusion, therefore, is that while there are grounds for optimism regarding the obligation to facilitate, the State must remain wary of the potential for regress.

The obligation "to provide" comes into play whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal. This obligation also applies for persons who are victims of natural or other disasters.

The *Public Food Distribution System* (PFDS) plays an important role in discharging the obligation to provide, as it is designed to improve access to and consumption of foodgrains by various target groups. The government has intervened in two major ways to relieve the nutritional stress of the poor: (i) through price subsidies on foodgrains and (ii) targeted income transfers. Through its general open market sales (OMS) operation, the government aims to arrest seasonal price hikes, thereby relieving consumer stress in the lean season. Through its targeted ration channels, the government offers rice and wheat for sale to selected groups at various rates of discount over market price. Income transfers, on the other hand, involve payment in cash or kind "for work" or free through such programmes as *Food-for-Work* (FFW), *Vulnerable Group Development* (VGD), *Food-for-*

[23] For a thorough analysis of the data and methodological issues related to recent poverty and inequality estimates in Bangladesh, see Khan (2005).

[24] The rate of underemployment declined from 43 per cent in 1991/92 to 32 per cent in 1999/00, and then fell further to 25 per cent by 2005/05—this represents a faster rate of decline in the second period.

[25] The real wage index for all kinds of wage labour rose relatively slowly from 107 in 1990/91 to 121 in 1999/00, but then rose much faster to reach 138 by 2004/05.

Education (FFE), *Rural Maintenance Programme* (RMP), etc. Some of these programmes allow the purchase of commodities (rice or wheat) at subsidized prices, some deliver commodities for free, others for work and still others deliver cash. All of these programmes increase the real income of the recipient households, enabling them to gain greater access to food.

An evaluation of three transfer programmes showed that at least two of them—viz. FFW and VGD—reached the poorest of the poor (Chowdhury and Sen 1997). This is evident from the fact that the bottom three expenditure groups accounted for 73 and 93 per cent of beneficiaries in FFW and VGD respectively even though comprised only 23 per cent of the rural households. A major reason for success in targeting lay in the nature of self-targeting that characterises these programmes.

Further insights may be drawn from a rigorous benefit incidence analysis of the targeted food assistance programmes in Bangladesh carried out by the World Bank in collaboration with Asian Development Bank (World Bank 2003). The study covered such areas as targeting effectiveness of food-assisted transfer programmes, assessment of leakage from food-assisted programmes and improving the impact of the public safety-net in achieving both relief and development objectives. The study found that targeting efficiency improved in the early 1990s when, in an effort to reorient food transfers to the poor, the Government abolished the poorly targeted urban and rural ration channels and raised the share of resources allocated to targeted food-assistance programmes. By the late 1990s, almost 80 per cent of the total foodgrains channelled through the PFDS was being directed toward these programmes.

According to this study, VGD, FFE and VGF programmes appeared to be reasonably well targeted to the poor. Data from the *Household Income and Expenditure Survey* of 2000 was used to examine the targeting effectiveness of these programmes, which jointly accounted for 40 per cent of food assistance programmes. Estimates of the fractions of the population that participated in the programmes within each quintile showed all three programmes to be reasonably well-targeted towards the poor. The poorest-fifth of the population, for example, was nearly five times as likely to participate as the richest-fifth. These outcomes are comparable to the performance of targeted programmes in other countries.

Several factors underlie the pro-poor distribution of benefits. First, the targeting criteria used to select beneficiaries narrow down the eligible population to the degree that more than half the target beneficiary group is from the bottom two-fifths of the population. Second, even among the eligible beneficiaries, it appears that the local programme administrations go beyond the criteria to identify the poor from among the eligible populations. Thus, even among the group of eligible

beneficiaries, a person from the lowest quintile was about 2.5 times as likely to be selected for the programme as an individual from the richest quintile. Third, in the case of the FFE programme, part of the reason the distribution was pro-poor is simply because poor households, on average, had more children of primary school-going age.

Even though the transfer receipts are pro-poor, a large share of budgeted resources appears not to reach the intended beneficiaries, indicating serious accountability problems. As much as 35 per cent of the foodgrains allocated to the VGF, 41 per cent of the VGD, and an overwhelming 75 per cent of allocations to the FFE did not reach any household—eligible or otherwise (World Bank 2003). Diversion of resources at such a massive scale detracts from the success the government can otherwise claim in fulfilling its duty "to provide" by pursuing a pro-poor public food distribution system.

V. ASSESSMENT OF POLICY CONTENTS: THE RIGHT TO HEALTH[26]

Bangladesh has made great strides on the health front in the last three decades. Life expectancy at birth has gone up from 51 years in 1980 to 67 years in 2008, infant mortality has declined from 101 to 42 per thousand live births during the same period, and maternal mortality has declined from 18 to 3.5 per thousand live births. The incidence of malnutrition has also come down. Thus, the proportion of underweight children has declined from 71 per cent in the mid-1980s to 48 per cent in 2005.

Impressive as these achievements are, the assessment of policies from the human rights perspectives has to go much beyond these indicators of health achievement. This assessment must be based on what exactly the right to health entails. The first point to note is that the right to health is not to be understood as the right to be healthy, because the state cannot provide protection against every possible cause of ill health. The right to health actually entails the right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realisation of the highest attainable standard of health. The right includes both health care and the underlying determinants of health, including access to potable water, adequate and safe food, adequate sanitation and housing, healthy occupational and environmental conditions, and access to health-related information and education. The right to health contains both freedoms and entitlements. The freedoms include the right to control one's body, including reproductive health, and

[26] For supporting evidence and detailed analysis underlying the discussion in this sub-section, see the paper by Chowdhury and Osmani in this volume.

the right to be free from interference, such as freedom from torture and non-consensual medical treatment.

The entitlements include a system of health care and protection that is available, accessible, acceptable, and of good quality. Thus, the right to health implies that the State has an obligation to ensure that functioning public health and healthcare facilities, goods and services are available in sufficient quantity. It also means that they are accessible to everyone without discrimination. Accessibility has a number of dimensions, including physical, informational and economic accessibility. Thus, informational accessibility includes the right to seek, service and impart information concerning health issues, subject to the right to have personal health data treated with confidentiality. "Economic accessibility" means that healthcare facilities must be affordable for all. Further, all health facilities, goods and services must be acceptable, i.e., respectful of medical ethics and culturally appropriate, and of good quality. Accordingly, the following discussion seeks to assess the performance of government's policies and programmes in terms of enhancing the availability, accessibility, acceptability and the quality of health care facilities.

Availability

In recent years, Bangladesh has made considerable progress in expanding healthcare facilities in the country. Between 1975 and 2007, the number of Government hospitals has increased from 131 to 670 and the number of private beds has increased from 15,452 to 33,818. That is, the number of government hospitals has increased nearly five-fold during the last quarter century, while the bed strength has more than doubled. The availability of these facilities per person has improved as a result. Thus between 1985 and 2009, the availability of hospital beds improved from one bed for roughly 3,600 people to one bed for 1,900 people—marking a doubling of beds per person.

Along with the expansion of physical facilities, the availability of qualified health personnel has also improved at a rapid pace. The number of registered doctors has increased five-fold in the last three decades—rising from just about 10,000 in 1980 to close to 50,000 by 2009. During the same period, the number of registered nurses has increased about eight-fold—from 3,000 to over 24,000; and the number of registered midwives has increased even faster—almost 16-fold, going up from nearly 1,350 in 1980 to close to 22,000 by 2009. As a result of this expansion, per capita availability of medical personnel has improved significantly. Thus, the availability of doctors has increased from one doctor for 6,600 persons in 1985 to one doctor for 2,800 persons in 2009. During the same period, the availability of nurses has improved from one nurse for 15,000 persons to one nurse for 6,000 persons.

These statistics refer to the whole of the health care sector, not just the government sector. A significant structural change has, however, occurred over the recent period in the health sector as the private sector has come to play an increasing role. The number of private hospitals/clinics has grown from about 150 in the early 1980s to over 2,200 at present, while the number of government hospitals has increased from 510 to only 647 during the same period. Private hospitals/clinics thus currently outnumber public hospitals by a huge margin. Since private clinics tend to be smaller in size, however, the difference in the number of beds is much smaller than the difference in the number of hospitals. Currently, almost half of hospital beds are accounted for by private clinics—up from only one-sixth in the early 1980s.

Nevertheless, government services still retain an important place in the system by providing critical services either free or at heavily subsidized prices. There is plenty of evidence that it is the poor people who tend to utilise government services more, for the simple reason that they cannot afford the cost of good quality private services (CIET 1999, 2001, WHO 2002). Therefore, the government will have to continue to play a significant role as a service provider at least in the short to medium term if basic health services for the poor are to be ensured.

Accessibility

Ensuring adequate availability of health services is necessary but not sufficient for realising people's right to health. The services must be accessible to those who need them the most. This means that the services must be affordable for the poor and provided to everyone without discrimination. Accessibility needs to be assessed in two dimensions—physical and economic.

Physical accessibility to health care facilities has improved significantly in the last two decades. The whole country came under the Primary Health Care (PHC) services in 1990 with the explicit goal of building one union sub-centre (USC) or health and family welfare centre (HFWC) in every union, one health complex in every *thana* (*upazila),* and one general hospital or tertiary facility in every district (59). The Health Policy introduced in 1998 also envisaged setting up community clinics at the village level.

Although the resulting structure of the health system in principle covers the entire population, physical accessibility has been compromised by the fact that actual facilities are relatively thin at lower levels. Thus, while the district towns are all covered and most of the *upazila* headquarters are covered too (as of April 2009, 413 *upazilas* out of a total of 481 had a health complex), at the next level below there were only about 1,300 Union Health and Family Welfare Centres for a total of 4,403 unions, and out of 20,000 wards only about a half had a Community Clinic.

As a result, physical accessibility has not increased fast enough, especially for the rural people.

As for economic accessibility, one useful indicator is the distribution of health subsidy across income groups. A World Bank study has estimated that the poor households received 45 per cent of all health subsidies in 2000, while their population share was 50 per cent and their share of total income was 26 per cent (World Bank 2003). These subsidies accounted for 1.45 per cent of total expenditure by the poor and 0.78 per cent for the non-poor. These results suggest that the government's overall health expenditures were not pro-poor *per se*, but only weakly pro-poor in the sense that these expenditures were more equitably distributed compared to the distribution of household income or expenditure in the economy. In other words, while public health spending helped to *reduce* the overall inequality in the economy, it was itself skewed against the poorer households.

Among all the different categories of public health expenditure, child health expenditure (curative and preventive combined) was found to be the most pro-poor —54 per cent of all subsidies went to the poorer half of the population. This is in fact the only category for which per capita subsidy is higher for the poor, even in the urban areas. The amount of subsidy per capita is the highest for the poorest quintile and declines monotonically for richer quintiles.

This does not necessarily imply, however, that the poor received higher subsidy per child. Since the poor happen to have more children per household, resulting in a higher children-to-adult ratio, higher subsidy per capita is perfectly consistent with equal subsidy per child (or even a slightly lower subsidy for a poor child). Of course, even if the poor child received the same subsidy as the rich ones, this is no mean achievement in a country where the richer segment is known to capture the lion’s share of most subsidies.

This equality has been achieved mainly through rapid expansion of immunisation services by the government in the last two decades. As it happens, government is the main provider of immunisation services in Bangladesh, accounting for over 90 per cent of all immunisations. As a result of this near complete coverage, there is no longer any difference in the access of the poor and the non-poor—as measured by whether a child has received at least one major vaccine. However, there is still some difference in terms of whether a child has received all the major vaccines. The proportion of children receiving all vaccines (as of the year 2007) is 88 per cent for the non-poor and 80 for the poor.

The only other service to which the poor have had at least equal access is ante-natal maternity care from the public sector. In the year 2000, as many as 90 per cent of pregnant women from poor households attended government ante-natal facilities

at least once, whereas only 79 per cent of the non-poor did so. The difference is especially stark in urban areas—88 per cent among the poor as against 65 per cent among the rich. This difference reflects the fact that the rich avail themselves of the more expensive, but presumably also more reliable, private facilities.

While poor people's access to publicly provided ante-natal care and immunisation services was found to be roughly at par with that of the rich, in all other respects they had lower access. This is true of attended delivery and post-natal care, and especially true of all kinds of curative services. Government's role in providing curative services is generally very small, and whatever service it provides goes disproportionately to the non-poor. Thus estimates based on the *2000 Household Income and Expenditure Survey* show that only 1.2 per cent of the poor population availed of government facilities for curative care in the month preceding the survey, while 2.3 per cent of the non-poor did so (World Bank 2003).

What is more disconcerting to note is that the rich-poor differential in the access to curative care has been widening over time. Data from successive rounds of the *Bangladesh Health and Demographic Survey* show that for each of the three major childhood diseases—viz. fever, diarrhoea, and acute respiratory diseases (ARI)-the proportion of children in the poorest quintile covered by medical treatment has either remained virtually unchanged or gone down in absolute terms. In the case of diarrhoea, the problem is partially mitigated by the fact that the decline in medical treatment has been compensated by the increased coverage of Oral Rehydration Therapy (ORT), but there is no such mitigating factor for the other two diseases. By contrast, for the richest quintile, the coverage of medical treatment has gone up in absolute terms in each case. As a result, the differential in coverage has widened between the rich and the poor. Evidently, the system of curative healthcare for children has become distinctly more inequitable over time.

Inequity is also widening in the access to maternal care. In all these aspects of maternal care—for example, ante-natal care, delivery assistance and postnatal care—the poorer women's access to a medically trained person has been improving at a much slower pace compared with richer women.

For both women and children, the growing inequity is especially evident when it comes to medical treatment at private facilities. As it is, the coverage of medical treatment at private facilities is already biased in favour of the rich. The fact that the differential is widening over time indicates that the private healthcare facilities are becoming increasingly more biased towards the rich. When this finding is combined with the fact that the expansion in health facilities in Bangladesh in the last three decades has been driven primarily by the private sector rather than the public sector,

it becomes evident that the curative healthcare system of Bangladesh has failed singularly to promote equitable fulfilment of the right to health.

The fact that healthcare provision through the private sector is inequitable is not in itself a matter of concern. It is perfectly understandable that the richer segment of the society would use their greater purchasing power to obtain good quality services from private providers much more than the poorer segment can afford to do. What really matters from the perspective of the right to health is whether, and to what extent, public health facilities can offer an adequate alternative to the market which the poor can also access and benefit from. Evidently, the public sector has not been able to offer such an alternative adequately enough to offset the inequity that is inherent in the private sector. This is a major failure of health policy in Bangladesh.

Quality and Acceptability

The rights-based approach emphasises not just that the quantity of service should be adequate, but also that the quality of service be good and that it is provided in a socially and culturally acceptable manner. Health services in Bangladesh fare very poorly on this score. The quality of public service is generally very low in the country, and health services are no exception in this regard.

The quality of healthcare in the public sector is compromised by a number of inadequacies that are endemic to the system. First, although the public healthcare facilities are supposed to provide most services free of charge, in reality they are not free for patients. Often the patients are forced to purchase drugs and supplies and to make various other kinds of unofficial and informal payments. Second, absenteeism is rife in public facilities. According to a survey carried out in 2003, absenteeism among doctors was 41 per cent of *upazila* health complexes and 44 per cent for union-level facilities. Third, the opportunity of government doctors to do private practice makes matters worse. Although the doctors claim to attend to private patients after office hours and outside the official premises, there is strong evidence that public and private services tend to be provided on the same premises and during office hours. Fourth, non-availability of essential drugs and equipment is a serious hindrance. Many studies have revealed that costly medicines and equipment are sold off by corrupt officials and staff. A recent official review has noted that, quite apart from the pilferage, even the official provision for drugs at lower levels of the health system has long been insufficient and declining (IRT 2009).

The consequence of all these problems is reflected in a poor rate of utilisation of public health facilities. A survey carried out in the early 1990s found that about 63 per cent of the health centres had inadequate physical facilities, 60 per cent had inadequate personnel, 80 per cent faced a shortage of vaccine or supplies and the number of referral cases was a meagre 1-2 per cent. Even as late 2009, an official

review of the healthcare system came to the conclusion that over the years "there has been no improvement in the low utilization of curative health services, especially by the poor", and expressed concern that "There are no plans to address these issues. The recently revised PIP implies a reduction in the share of the Essential Service Delivery OP from 20% of actual spending in June 2008 to just 15% in the 2008/09 to 2010/11 period. Patient numbers are assumed to grow in line with population, implying no improvement in access. Geographical allocation of MOHFW spending continues to be biased against the poorest districts" (IRT 2009).

The poor state of public health facilities hurts the poorer people and women particularly, because they tend to avail these services more than the rest of the population, primarily in the hope of saving on costs. Faced with the numerous impediments mentioned above, however, the poorer people actually turn out to receive less of the benefits from public facilities compared to the richer people who can find ways of getting around the difficulties. It is hardly surprising, therefore, that a service delivery survey carried out in the early 2000's found that the very poor were less likely to use government health services than the rest of the population (CIET 2001).

What makes for poor quality of service is not just the lack of physical facilities such as medicines but also the behaviour of service providers. The first official evaluation of the *Health and Population Sector Programme* (HPSP) found that whereas over 90 per cent of users of qualified private services as well as of unqualified practitioners were satisfied with the behaviour of service providers, only 66 per cent of users were satisfied with government service providers (CIET 2001). Moreover, bad behaviour seems to be especially serious when the users come from very poor households, who feel that government services discriminate against them and treat them with disrespect.

This aspect of quality of service also impinges on the acceptability of services, which is also important from the perspective of rights. The right to health entails not just that people receive adequate health care but also that in the process of being served they must be treated with respect and dignity. Bad behaviour on the part of service providers is as much a violation of rights as the absence of affordable health care.

The problem of acceptability arises in other ways as well. For instance, the HPSP baseline survey conducted in 1998 found that a third of the *Thana* Health Complexes (THC) did not have a separate room for consultation and examination, and in a third patients were not examined in private. The situation is even worse in the UHFWCs. Half of them did not have a separate consultation/examination room and two-thirds didn't a screen around the examination couch. Such infringement on

the privacy and dignity of patients is incompatible with the rights-based approach to providing health services, especially with regard to female patients in the prevailing cultural context of Bangladesh.

Yet another dimension of the acceptability problem relates to subjecting the patients to inappropriate treatment. This problem is especially acute in the unscrupulous use and prescription of drugs. A recent national household survey of the treatment of children with symptoms of acute respiratory infection and diarrhoea revealed that over 360 different types of drugs were used, including many drugs that had either no proven therapeutic or symptomatic benefit or were positively harmful. Many of the products were not even approved by the government and had been illegally imported or produced locally by unregistered producers.[27] Such behaviour on the part of the health community constitutes a serious violation of people's right to health.

VI. ASSESSMENT OF POLICY CONTENTS: THE RIGHT TO EDUCATION

The core content of the right to education is the right of every child to receive free primary education for all children. In addition, states have an obligation progressively to introduce free and equal secondary education (including vocational training) for all and to ensure equal access to free higher education on the basis of capacity. They also have an obligation to intensify fundamental (basic) education, leading to the elimination of illiteracy, for adults who have not satisfied their basic learning needs. Equality and non-discrimination are important aspects of the right to education, as is the quality of education.

In principle, States can provide these rights through the medium of both private and public educational institutions. Since private schools usually do not guarantee free primary education for all children, States are under an obligation to establish a sufficient number of public schools, hire the required number of qualified teachers and provide for the quality of education as laid down in international human rights law. As a first step, all States parties to the *International Covenant on Economic, Social and Cultural Rights* should work out and adopt, within two years after ratification, a detailed plan of action for the progressive implementation of the principle of compulsory primary education free of charge for all.

In addition to these positive obligations to fulfil the right to education, States have an obligation to respect the liberty of parents to establish and direct their own educational institutions, to choose private schools for their children should they

[27] For more detailed discussion on the inappropriate administration of drugs, and related issues of governance in the health sector, see BHW (2010).

decide to do so and to ensure the religious and moral education of their children in conformity with their own convictions.

Judged against these criteria, the record of progress in Bangladesh in the implementation of the right to education is a mixed one.[28]

Quantitative expansion of access to education

After independence in 1971, the government nationalised the primary education sector in 1973 through which strengthening and improving the primary education system became a part of the State's responsibility. Since then there has been significant expansion of free primary education in the country. Between 1975 and 2008, the number of primary schools increased by 106 per cent, while the number of teachers and students rose by 92 per cent and 122 per cent respectively. As a result, both the average number of students per school and the student-teacher ratio show a decreasing trend over the years.

Progress has been most rapid in quantitative terms. Gross and net enrolment rates increased to 98 per cent and 91 per cent respectively by 2009. The country is, however, still far from ensuring universal coverage of primary education, because official estimates show that, as of 2007, as many as half of the enrolled students dropped out before completing primary education (DPE 2008). This marks a sharp reversal of earlier trend, as the completion rate in primary education had gone up earlier from 43 per cent in 1990 to 70 per cent in 1998 (BBS and UNICEF 2000). The official trend is confirmed by an independent study, which shows that the completion rate has fallen from 70 per cent in 2000 to 50 per cent in 2008 (CAMPE 2009).

The significant increase in enrolments at primary level since the 1980s has spilled over to higher enrolment at the secondary level in the 1990s, which more than doubled between 1990 and 2008. Yet, enrolment rate at the secondary level remains quite low, reaching 43 per cent by 2005.

The problem of low enrolment is compounded by very poor survival rates. A study in the late 1990s found that for every 100 students who entered the secondary school system at grade six, only 60 advanced to the second year and a meagre six of them survived through passing the final examination at the higher secondary level, which is a pre-condition for continuing with higher education (CAMPE 1999). More recent data on survival up to the higher secondary level is not available, but comparable data exist for survival up to secondary certificate examination. In 1999, of those who entered the 6th grade some 31 per cent survived the examination in

[28] The assessment in this section draws heavily on the paper by Mujeri in this volume.

grade 10, but in 2008 only 20 per cent did so (CAMPE 2009). Thus, as in the case of primary education, in secondary education too one finds a decreasing trend of completion rate. Considering that only about half of those who enter school complete the primary circle, and 20 per cent of those who enter secondary school complete the secondary cycle, one can infer that no more than one in ten of the children who ever go to school complete the 10-year schooling cycle. This is a terrible indictment of the educational system in Bangladesh. The fact that an already low completion rate has become even worse over the last decade indicates a serious reversal in the progress towards achieving the right to education, despite increasing enrolment rates at all levels of schooling.

Gross enrolment at the tertiary level has more than doubled over the last three decades, but still remains pitifully low. The government has recently placed strong emphasis on adult education. Yet, a huge backlog of illiterate population renders the literacy rates in Bangladesh very low by international standards. In 2009, adult literacy rate (for people aged 15 years and above) was 59 per cent compared with 24 per cent in 1970. Moreover, half of the youth (15-24 years) were illiterate in 2000.

Equity in access to education

Perhaps the most satisfying aspect of Bangladesh's progress towards realising the right to education is the achievement of gender parity at the primary level and reducing the gender gap significantly at the secondary level. In 1970, net enrolment of girls at the primary level was only half of that of boys—33 per cent as compared with 66 per cent. By the end of the 1990s, the enrolment rates had become virtually equal—at 82 and 84 per cent respectively. By 2009, girls had overtaken the boys with a net enrolment of 94 per cent compared with 88 per cent for boys. In the recent years, girls have overtaken boys even in secondary enrolment—in 2005, girls enrolment was 47 per cent compared with 37 per cent for boys.

The surge in female schooling that has occurred in Bangladesh, especially in the last decade, has led to a remarkable narrowing of the literacy gap between males and females. Even as late as 2000, among the youth (age group 15-24 years), female literacy was two-thirds that of males; by 2009, the gap had all but disappeared—with female literacy being 72 per cent and male literacy 73 per cent. Because of the legacy of past discrimination against girls' education, however, adult literacy rate is still lower for females, although the gap is narrowing quite fast. In 2000, adult female literacy was 23 percentage points lower than adult male literacy (29 versus 52 per cent); by 2009, the gap had narrowed to just 8 percentage points (55 versus 66 per cent).

Gender apart, in most other respects disparities in educational attainment remain a major problem with the implementation of the right to education in Bangladesh.

Significant disparity still persists between urban and rural areas, among different administrative divisions of the country, and between the poor and non-poor.

The "rural-urban divide" is reflected in significant variations in the type of primary schools that the students attend. Most of the rural students (around 92 per cent) are enrolled in government and government subsidized schools and *madrasahs*, while in the urban areas students have greater access to private schools. Since the quality of education in the private schools is generally higher than that in government schools, these differentials may have far-reaching consequences for future educational prospects of the children living in rural areas vis-à-vis those in urban areas.

Despite the generally broad-based nature in the quantitative expansion of education, significant geographical disparity exists in access to and participation in primary education. A survey conducted in 2000 reveals low enrolment rate and cycle completion rates in Barisal and Sylhet divisions compared with other divisions of the country (CAMPE 2002). The survey also indicates wide disparity among villages in terms of access to primary education. Of the villages surveyed, the net enrolment rate was reported at or below 50 per cent in 4.5 per cent of the villages. These low performing villages were often small villages located in ecologically fragile, disadvantaged, and low-lying areas.

There is also persistent disparity across income groups. Even though primary education is free for everyone, a recent study has found that the net enrolment rate of the primary aged children significantly increases with the increase in household food security status. For instance, the proportion of children currently enrolled was found to be 78.1 per cent for *always in deficit* households, 84.3 per cent in *sometimes in deficit* households, 87.9 per cent in *breakeven* households and 91 per cent in *surplus* households. Similar trends were found when data were separately analysed for the girls and the boys. The same study also found that between 2005 and 2008 the net rates declined for the upper three of the four categories of household food security status while the rate increased for the poorest group (CAMPE 2009).

Disparity across income groups widens at higher levels of education. Thus, according to the *Household Income and Expenditure Survey* of 2005, the gap between the poor and non-poor households was 12 percentage points in primary enrolment (72 versus 84 per cent), but it widened to 21 percentage points at the secondary level (54 versus 75 per cent).

Children who come from poor families attend schools less frequently, have higher dropout rates, and have lower performance in achievement tests. A comparison of selected internal efficiency indicators during 1998-2000 indicates

that the participation of disadvantaged groups remains low with little change in socio-economic composition of net enrolment of the primary students (CAMPE 2009). Moreover, the level of competencies achieved is significantly lower for children from poorer households. Controlling for other factors, the average level of competencies rises monotonically from 17.7 (out of 27) among the "always in deficit" households to 18.1 in "sometimes deficit" households, 18.7 in "breakeven" households and 20 in "surplus households" (CAMPE 2009).

For the poor families, the cost of educating their children is a significant deterrent. Although the direct costs are low in the early years of education, they increase rapidly with each grade. The composition of direct education costs changes with age and varies between income groups. Tutoring costs—that is, costs for supplementary private teaching outside school hours—become progressively more important at higher grades, and is a cost that poorer families can less frequently afford. The average annual education expenditure by the households at the primary level was estimated at US$ 13 per student per year in 2000, which was equal to the government expenditure at the primary level. This constitutes a significant burden for the poor households. More important than direct costs for poor households, however, are the indirect costs. In Bangladesh, child labour is common and begins at an early age. In both rural and urban settings, poor families often rely heavily on their children to help with a variety of tasks (generally household-based) essential to the wellbeing of the family. The loss of foregone income from children's work represents a much higher opportunity cost for poorer households compared to the richer ones in both absolute and relative terms.

Further elements of inequity lie in the fact that the existing system does not provide adequate access to children with physical and mental disability to primary and/or basic education. The *National Education Policy 2000*, for instance, contained no specific provision for education of children with disabilities. Similarly, the issue of access to education for children of tribal and small minority groups and providing instruction in indigenous/minority languages is a concern that needs to be resolved for ensuring an approach consistent with the human rights.

Quality of education

People have rights not only to access to education, but also to good quality education, and in this respect, the record has been pretty dismal. The evidence from various surveys indicates that students' attendance rates are low, teacher absenteeism is high, the curriculum is of limited relevance and the teacher-student contact time is low. As a result, learning achievements remain poor with low passing and completion rates. An in-depth classroom observation under the government's *Primary School Performance Monitoring Project* (PSPMP) indicated

that poor physical facilities, inadequate teaching materials including text books, memory-based teaching style and lack of remedial measures in the classroom contribute to poor performance of the students (CAMPE 1999).

The level of competency of primary school leavers was found to be depressingly low in a recent survey (CAMPE 2009). Of the 27 competencies under test, the students, on an average, achieved 18.7 competencies with a range zero to 27. In other words, the students who completed primary education in 2008 achieved 69.3 per cent of the competencies under test. The average achievement of the boys was significantly higher than that of the girls (19.3 vs. 18.2), and urban students surpassed their rural counterparts with a significant margin (20.1 vs. 18.4). The gender difference was higher in rural areas than that in urban areas. Overall, the primary school completers achieved 16.1 competencies in 2000, which increased to 18.7 competencies in 2008. This means that over a period of eight years, the amount of improvement was 2.6 competencies—0.33 competency per year. This indicates very slow progress in learning outcomes in terms of competencies attainment.

In sum, Bangladesh has made notable progress in several aspects of the education sector, which is reflected in increasing literacy and enrolment rates in primary education and in closing the gender gaps at the primary and secondary levels. It is equally true, however, that the country has yet to go a long way towards realising the right to education for all. In addition to ensuring access to education for all school-going children, several issues like quality and equity in access remain important concerns with regard to the implementation of the right to education in Bangladesh.

Bangladesh's past education outcomes, particularly the success in expanding the coverage and access to primary education and reducing gender and urban-rural disparity, were greatly influenced by the government's policies and specific actions on both the supply and demand sides. In this respect, the strategy to promote the education of the poor and women through demand side interventions has delivered significant positive results. In the area of primary and secondary education, two demand side transfer programmes are worth mentioning.

One of these, namely, the *Food for Education* (FFE) programme provides food to disadvantaged families for sending their children to primary school. The second one, which is known as *Female Secondary Stipends* (FSS) programme, provides stipends and tuition waivers to girl students attending grades 6-10 in non-municipal (rural) areas. A significant share of public development expenditure on education is devoted to these programmes. In 2000, nearly 16 per cent of the government's total development expenditure on education was devoted to the *Female Secondary Stipends* programme while another 20 per cent was spent on *Food for Education*

and primary stipend programmes. Evidently, the stipend programmes have contributed much in raising girls' secondary enrolments. This is evident from the fact that although the enrolment rates of boys and girls are quite similar at the primary level, girls' enrolment rate has overtaken that of the boys at the junior secondary level in both urban and rural areas.

The *Food for Education* (FFE) programme is an in-kind stipend given to poor households with children attending primary schools.[29] From a human rights perspective, the significance of FFE is that it combines the rights to education and food in an integrated manner. The programme's goals are to increase school enrolments and school attendance, lower dropout rates, and improve the quality of primary education. The programme was introduced in 1993 and, during 2000, nearly 2.3 million students of 2.2 million poor families from 17,403 primary schools in 1,247 unions of the country were included under the programme.[30]

The FFE programme is funded by the government and is carried out at the field level by relevant local officials with the assistance of the School Management Committees (SMCs). The targeting is done in two stages. First, one or two unions that are most economically backward and have low literacy rates are selected within each rural upazila. Second, the SMCs draw up the list of participants giving priority to female-headed, landless, and low-income families. Within the selected unions, all government, registered non-government, satellite and low-cost primary schools as well as one *madrasah* are eligible for inclusion in the programme. In order to provide incentives for improving primary schooling quality, the selected schools are required to meet prescribed minimum standards on attendance, examination schedules and success rate of the students.

Evidence from different surveys suggests that the FFE programme was reasonably well-targeted to the poor. As already noted in section IV, the poorest 20 per cent of the rural population were nearly five times more likely to participate in the programme than the richest 20 per cent of the population. Several evaluations of the FFE programme have also found that, in general, the programme has had favourable impact on several efficiency indicators at the primary school level e.g. enrolment, attendance and dropout rates.

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[29] In 2001, the government reformed the FFE programme into a Cash for Education (CFE) programme in response to reports of widespread pilferage of grains.

[30] In order to redress disparities, poor students of the remaining 3,208 unions of the country have been covered under a stipend programme. Since April 2000, 40 per cent of poor students covering a total of 3.2 million students receive a stipend of Tk. 25 per month.

An excellent example of a programme that integrates the right to education with several other rights is the ILO-sponsored *International Programme on the Elimination of Child Labour* (IPEC). Although child labour is a human rights issue in its right, it also has a bearing on the right to education since children engaged in income-earning activities tend to be deprived of the opportunity to acquire education. IPEC is based on the assumption that while all attempts must be made to eliminate the worst forms of child labour (as defined in ILO conventions), it would be unrealistic to expect complete elimination of child labour of all types in Bangladesh in the near future in view of economic compulsion of poor parents to engage their children in income-earning activities. Under the circumstances, the best one can try to do enable the working children to acquire access to education. Accordingly, providing flexible education opportunities for working children is an essential component of the initiative undertaken under IPEC.

As non-formal education programmes are more flexible and child-centred, these programmes have been adopted as a parallel or complementary approach to formal education. In 2000, the government of Bangladesh launched a special programme for the urban working children of Bangladesh. Arrangements have been made to organise two years basic literacy courses for the urban working children through four to five thousand centres in six divisional headquarters.

Further measures have been taken, with the support of UNICEF, to identify the meritorious students and to provide them with financial support so that they can continue their education up to the secondary level. In addition, the National Academy for Primary Education (NAPE) has introduced a "child labour" component in its training courses for Primary Education Officers and Instructors of the primary school teachers training institutions.

The continuation of the good work initiated by IPEC has been hampered in the recent years in the absence of formal policy on child labour in Bangladesh. The government developed a *National Plan of Action on Child Labour* in 1997, but it was not endorsed into a formal document. So far, there exists no specific policy on child labour on the basis of which an action plan could be formulated.

VII. RIGHTS-BASED ASSESSMENT OF POLICY FORMULATION AND MONITORING PROCESSES

As noted in section II, the right to development entails not merely the right to enjoy the fruits of development but also the right to participate in the decision-making processes and the opportunity to hold the State to account in case it fails to discharge its obligations. Thus, the right to development approach requires that the process of policy formulation should involve the civil society in general and the

poor people in particular. It also demands that the State must devise effective accountability mechanisms as part of the monitoring process so that the State can be made accountable for its actions and inactions. The policy regime in Bangladesh is assessed in the light of these two requirements in this section.

Participation in the Process of Policy Formulation

There has been increasing recognition of the importance of broad-based participation in decision-making processes in Bangladesh. In practice, however, very little effective participation has been achieved.

The lack of participation is most evident at the national (as distinct from sub-national) level policy-making. An apparent departure was made recently by the process of preparing the *Poverty Reduction Strategy Paper* (PRSP), which did involve a large number of discussions and meetings with various stakeholders. But this departure was more apparent than real because there is no evidence that the strategy or the detailed contents of policies were in any way been influenced by these activities.

The same is true for sectoral policies as well. Formulation of different policy documents over the recent decades has involved hardly any participation of the civil society and relevant stakeholders. In the food sector, for example, the *National Food Policy* of 1988 was prepared by the officials of the Food Ministry, without any consultation from the members of the civil society. The Task Force Report on *Strengthening of Institutions of Food-Assisted Development* (SIFAD) was prepared by government officials, only in consultation with the relevant donor agencies. The Report of the *Task Force on Comprehensive Food Security Policy for Bangladesh* (2001) had only one representative from NGO out of nineteen Task Force Members. The latest *National Food Policy*, which was approved in 2006, was also essentially non-participatory in nature. The only redeeming feature is that the *Plan of Action* (2008-2015) that was subsequently prepared by the Food Planning and Monitoring Unit (FPMU) of the Ministry of Food and Disaster Management recognised the importance of stakeholder's involvement in the monitoring of progress.

As for education, the situation is not much better. The formulation of the post-Dakar *National Plan of Action* for "Education for All" (2002-2015) and the *National Education Policy 2000* was dominated by centralised planning and administrative practice. *The Plan of Action* was prepared by a technical sub-committee with eighteen members, of whom only five were civil society representatives. The exclusionary nature of the process and the lack of stakeholder

consultation were widely deplored by the civil society at the time.[31] Similarly, the *National Education Policy 2000* was finalised by a small committee of six members and was adopted by the Parliament in one day with very little discussion.

At the grass-roots level, the education system has tried to foster participation through the institution of SMCs working in close collaboration with local government institutions. In practice, however, little delegation of authority has so far taken place. The SMCs have been dominated by local male elite with marginal involvement of parents, females, and concerned community members. As a result, neither widespread participation nor genuine accountability to the stakeholders and the beneficiaries has been ensured.

It is perhaps in the health sector that the importance of participation has been recognised most explicitly, as least as evidenced by various policy documents. Specifically, the *National Health Policy* of 1998 envisioned an essentially participatory approach to caring for people's health, at least at the local level. It called for decentralisation of services and participation of local population and local government institutions in policy development, financing and monitoring of health services. The locus of such participation was chosen at the lowest tier of government services, namely the new Community Clinics to be established under the *Health and Population Sector Programme* (HPSP).

A similar village-based participatory approach has yielded rich dividends in many parts of the world, including India where the *Jamkhed* experiment has become particularly well known (Arole and Arole 1994). In Bangladesh, the BRAC *Shasthya Shebika* model of village-based health care shares many of the characteristics of the *Jamkhed* approach and has proved to be highly successful. The concept of Community Clinics was supposed to have been a move in the same direction. According to the HPSP Guidelines, each community clinic was to be managed by a community group whose membership was to be drawn from all walks of life, including the poor and women. The group would be responsible for all aspects of running the clinic, starting from site selection.

The project, however, failed to live up to the expectations. An evaluation carried out in 2001 found that only about half the projected number of Community Clinics had become functional. More disturbingly, most of the clinics were not actually running along the expected participatory path. In fact, in many cases site selection and even the construction of the clinic was completed before the group was formed. Even in those cases where the group existed, there was very little role

[31] The *Dakar Framework of Action* adopted at the *World Education Forum 2000* clearly stated that the national plan of action should be formulated on the basis of the broadest possible consultation with all stakeholders.

of the groups, and many members of the groups expressed disappointment with their clinics' current status and pessimism about future prospects (WHO 2002).

The non-participatory nature of the whole process is also corroborated by the official evaluation of the HPSP carried out in 2000 (CIET 2001). A survey of households revealed that only one in ten respondents knew about a Community Clinic group active in their area. Among those who knew of a group's existence, 85 per cent did not know anything about its activities and 10 per cent believed it did not function. Even a significant proportion (almost a third) of health professionals confessed to knowing nothing about the groups or how they were supposed to function. Only one out of 200 community-based health workers reported working in a clinic that had a functioning community group, which testifies to the general absence of functioning community groups.

One consequence of lack of participation at the local-level was that there existed no mechanism for feeding the preferences of intended beneficiaries into the process of formulation at the national level. A case in point is the HPSP policy to unify health and family planning services, which had previously been running almost parallel to each other *albeit* under the same Ministry. Field studies showed that the idea of unification was generally welcomed by the focus groups of both sexes (CIET 1999). Yet, at the conclusion of HPSP, the government went back to the old ways by dumping the idea of unification, thereby disregarding the expressed wishes of the people concerned.

Another example comes from yet another feature of HPSP, which sought to terminate the practice of domestic visits by family planning workers and instead locate their services at the community clinic. Yet, the baseline survey conducted for the programme revealed during focus group discussions that this decision was not popular with the users. Men's focus groups were roughly equally divided on this issue, but more than three quarters of women's groups were against it (CIET 1999). There was, however, no mechanism for the users to influence the nature of decision making so as to make it conform to their preferences.

When the *Health, Nutrition and Population Sector Programme* (HNPSP 2003-2010) came to replace HPSP in 2002, the idea of the Community Clinic was finally abandoned, which also meant the abandonment of the participatory process that was meant to be promoted through this institution. HNPSP, however, sought to promote community participation through several alternative modalities, one of which was local level planning (LLP) with local stakeholder participation. The Ministry of Health and Family Welfare was to form a national level committee and six district committees to carry forward the task of decentralisation in planning in the health

sector. Actual implementation of LLP is, however, still at a very early stage for its impact to be felt at a wide scale.

Another mechanism, known as the *Health Users' Forum* (HUF), was a very progressive idea on paper, as it aimed to involve all stakeholders (government, service providers, clients and communities) working together to make public health facilities perform better. The forums were to be formed at local through to national levels. They were to adopt an explicitly rights-based approach, ensure gender parity in the composition of the forums, and to form the basis for local-level planning, monitoring and evaluation. Unfortunately, however, the idea of HUFs has existed merely as a policy document without implementation.

While government programmes have so far failed to install participation in the health system, there is evidence from NGO experience that participatory processes at the local level can be effective. The pioneering experiments initiated by the *Gono Shayashtha Kendro* and other smaller scale initiatives such as Plan International's Community-Managed Health Care, which helped set up over 250 community-based organisations (CBOs) for enabling citizens to participate actively in the running of community clinics, have shown how this can be done.[32] Unfortunately, however, these experiments still cover only a small proportion of the people in the country as a whole. As a result, most ordinary people have no scope of participating in the decision making processes regarding how health services should be delivered to them. Regardless of the quantity and quality of services they receive, this absence of participation in itself constitutes a violation of the people's right to health.[33]

Monitoring and Accountability

Even more than the mechanisms of participation, mechanisms for ensuring effective accountability of the State are conspicuous by their absence in Bangladesh, in all spheres of policy making.

In the food and education sectors for instance, there is no accountability mechanism for seeking redress against the huge leakages that characterise programmes such as the Food for Work (FFW) and Food for Education (FFE) programmes. In the health sector, the *National Health Policy* of 1998 did envision

[32] BWH (2007, 2010) and S. Mahmud (2004, 2006) offer detailed accounts of many initiatives taken by the civil society to promote citizen's voice in the conduct of the healthcare system in Bangladesh.

[33] The Awami League government that came to power in late 2008 has decided to revive the institution of Community Clinics, as part of a new health policy initiative which is currently under discussion. If properly implemented, this would constitute a move towards ensuring people's right to participate in health and related matters.

the adoption of a *Client Bill of Rights* with a view to enhancing accountability. Its objective was to raise awareness of the clients regarding their rights to high quality health care, which would ensure privacy, informed choice, safety and efficacy of care, and adherence to approved schedules. But the idea was never implemented in practice.

The right to health has continued to be violated with impunity by health authorities through various means—for example, by administering useless and harmful medicine to the children, by disregarding the patients' need for privacy at the time of medical consultation and examination, and by subjecting the patients, especially the poor ones, to bad behaviour.[34] The government service providers are also known to extract unofficial fees from the patients. The baseline survey for HPSP reported that a fifth of the users made an extra (unofficial) payment to the workers when they visited a rural government health facility, and more than a fifth paid an unofficial registration fee (CIET 1999).

The Community Clinics that were introduced in 1998 through the HPSP had the potential to ensure accountability at the local level since the Clinics were supposed to be managed by health authorities jointly with representatives of local communities. That potential was lost when the idea of Community Clinics fell out of favour with the BNP Government that took power in 2001. With the closure of HPSP in 2002 and the subsequent launching of the HNPSP, a fresh attempt was made by the Government to devise a series of new mechanisms for ensuring voice and accountability. Specifically, the Government proposed three mechanisms to promote voice of the ordinary people: *National Health Users' Forum* (NHUF); *Health Advisory Committee* (HAC); and *Clients' Charter of Rights*. As discussed earlier in this section, the *Health Users' Forum* has yet become functional in a significant way. The other two institutions are not faring much better.

The *Health Advisory Committee* (HAC) is composed of elected public representatives, service providers, local government officials and NGOs who are to meet and oversee service provision in a health facility. Evidence shows that where the HACs have functioned well, both the beneficiaries and the health authorities have benefited from this mechanism in a number of ways. The problem, however, is that the HACs have remained largely inactive due to limitations of membership, information and resources (IRT 2009).

Citizens' Charter of Rights (CCR) was launched in 2004 (and revised in 2007) with a view to making people aware of their rights to health. Separate charters were

[34] For a detailed account of the state of governance in the health sector of Bangladesh, see the illuminating discussion in BHW (2010).

to be framed for different levels of health administration. If effectively implemented, these charters would have armed the citizens with both knowledge and legal tools with which to hold the health authorities accountable at different levels of administration. In practice, however, they lacked effectiveness as tools for voice and accountability for two main reasons: first, the majority of the population, including the health service personnel, were unaware that these charters existed at all, and secondly, they were developed by a small number of government and health service personnel, without any significant consultation with the citizens.

The new Awami League government appears to be paying some attention towards redressing these inadequacies. A workshop was held in February 2009, in which a number of proposals were put forward to strengthen the voice and accountability mechanisms in the health sector (Talukder and Rob 2009). How well these are implemented and how effective they would prove in enhancing accountability in the health sector of Bangladesh remain to be seen.

The problem really is that accountability is an issue of governance in general, not specific to particular sectors, and the culture of governance in Bangladesh has never been respectful of the idea. The international donor community, which often bemoans the absence of good governance in Bangladesh, has itself taken many initiatives—sometimes through government departments but mainly through NGOs—to promote citizens' voice and accountability (CVA). A recent evaluation of these initiatives has come to the conclusion that while partial success has been achieved in a few initiatives that were designed to enhance people's participation in decision-making processes at the local level, hardly any success was observed on the accountability front. As the report points out "CVA interventions had been somewhat limited to support for advocacy networks and participatory processes embedded in development programmes in different sectors. There had been very little scope for accountability interventions partly because of an unwillingness to risk public scrutiny and partly because of the non-existent or non functioning guardianship institutions" (Jupp, Holland, Ali and Stanislawski 2008).

The introduction of democratic politics nearly a couple of decades ago had opened up the possibility of establishing accountability procedures that are essential for the rights-based approach to development. However, electoral democracy on its own is seldom enough to guarantee accountability, and so it has proved in Bangladesh. An extensive institutional framework needs to be developed—including a well-functioning parliament and parliamentary committees, separation between the executive and the judiciary, semi-judicial institutions such as Human Rights Commission, Anti-corruption Commission and Ombudsmen, and an effective system of decentralisation so that people directly affected by decisions at different levels of administration can hold the decision-makers into account.

Bangladesh has lagged seriously behind in most aspects of these institutional developments.

Successive governments have set up parliamentary committees to oversee various aspects of administration. In principle, they could prove an effective tool for ensuring accountability of government actions. But in practice their effectiveness has been compromised by narrow politicking around the composition of these committees that has led the major opposition party to boycott them wholesale. The parliamentary committees set up by the current Awami League government seem to have been more active as well as more inclusive than the ones in the previous regimes, but the fact that the opposition members of parliament are not taking part in these committees, despite being invited to do so, reduces the scope of independent scrutiny significantly.

The separation of the judiciary from the executive, which is the bedrock of any system of effective accountability, has been systematically avoided by all democratic regimes. Several times the Supreme Court has set deadlines for this purpose, only for the government to breach them blatantly, on the plea of insurmountable administrative difficulty of meeting the deadlines. Ironically, it was the non-elected Caretaker Government of 2006-2008 that eventually made an attempt to cut the Gordian Knot. The most they could achieve, however, was to lay the foundations of separation by setting up the necessary legal framework. There is still a long way to go before the separation can become effective, and the current Awami League government does not seem to be in a hurry to move things forward.

The only level of administration at which historically there has been some success in installing accountability mechanisms is the lowest level—i.e., *Union Parishad (UP)*. This has come about partly through donor encouragement and partly through the NGO movement's gradual transition from a predominantly service delivery mode towards the rights-based approach in the 1990s. A notable example is the UNCDF-funded Sirajganj local government project, in which the UPs were encouraged to collect their own revenue on top of the subventions received from the national government. As the *quid pro quo* of this power to tax, the UPs had to accede to the demand for participatory decision making and render themselves accountable to the taxpayers.

It is, however, at the next higher level—i.e., *upazila* level—that attempts to install accountability mechanisms have singularly failed. Strangely, the democratic regimes have never been kind to the idea of spreading local-level democracy at this level. It was the dictatorial regime of General Ershad that first introduced democratically elected local governments at the *upazila* level in the 1980s. Admittedly, it did so not out of respect for participation and accountability but out

of a frankly political motive of creating a grass-root support base in the absence of any other form of political support, but at least it created a basis on which the democratic regimes that have followed could have built. Instead, successive democratic regimes did their damndest best to stymie this institution, primarily by refusing to hold fresh elections. Ironically, it was once again the unelected Caretaker Government of 2006-2008 that made a serious attempt to revive the institution by holding elections at the *upazila* level in the teeth of fierce opposition from all major political parties. Unfortunately, the popularly elected Awami League government that succeeded the Caretaker Government has once again been playing the old game by curbing many of the powers and prerogatives that the elected *upazila* governments were supposed to be endowed with. Not for the first time in the history of Bangladesh has an elected democratic government undermined the cause of participation and accountability by subverting decentralisation.

The Anti-Corruption Commission (ACC) is yet another institution of paramount importance that the last Caretaker Government had revitalised (perhaps a touch excessively so, judged by hindsight), but whose future effectiveness has been called into question by a number of steps taken by the Awami League government to clip its wings. On a couple of other matters, however, the government has done the right thing. First, it has finally allowed the Human Rights Commission to come into being after a litany of broken promises by previous regimes. Second, and perhaps of more fundamental importance, it has legislated the Right to Information Act, acceding to a long-standing demand by the civil society. Access to information is the essential first step on the basis of which the citizens can hold the State accountable for not keeping its commitments, including its commitments on human rights. It is, however, just that—the first step. Without all the supporting institutions of accountability which successive governments have assiduously kept at bay, access to information alone will not enable the right-holders to bring the duty-bearers to account.

Civil society clearly has an important role to play here to keep up the pressure on the powers that be to make their power more accountable. There are elements of the civil society—most notably, the Transparency International Bangladesh (TIB) and *Shujon*—that have been doing a commendable job on this score, but they constitute only a small fraction of the vast NGO community in Bangladesh. International observers of Bangladesh have often noted with administration both the scale and quality of NGO presence in the country but have at the same time wondered why this large community does not perform a much stronger role in putting pressure on the government to move towards more accountable governance. The answer probably lies in the very process that has led to the prominence of the NGO community in Bangladesh.

The exceptionally large presence of NGOs in Bangladesh owes itself to a number of factors—for instance, the vacuum that existed in the immediate post-Independence period as the tasks of rehabilitation and development proved too enormous for a fledgling government to handle alone, the decision of the donor community to channel their funds increasingly through non-governmental channels, the inspiration provided by the successes of a few exceptionally innovative NGOs that became role models for others, and so on. But perhaps the most important reason why the NGOs have been allowed to occupy a rapidly increasing share of the institutional space in Bangladesh is that they have by and large avoided taking an openly adversarial posture vis-à-vis the government. This is not to suggest that they have not been critical of the government, but that they have been carefully selective in the nature of their criticisms. For instance, they have been critical of the inefficiency and inappropriate design of government's service delivery programmes, but not of widespread corruption, specifically corruption at the highest levels of governance (with the notable exception, as mentioned before, of TIB and a few other civil society organisations). Many of them have been vocal against the government's failure to realise a whole range of human rights, without, however, trying to hold the top echelon of politicians personally accountable for this failure.

So long as the NGOs have thus confined themselves to generalities about government failure without questioning the integrity of specific politicians or political parties, the government has mostly left them alone. The only instance when this did not happen was when the government led by the Bangladesh Nationalist Party (BNP) in the early part of this decade came down heavily against a prominent NGO called *PROSHIKA* and put its leaders into jail. The government mentioned technical issues such as misappropriation of funds as the reason for its heavy handed behaviour, but most observers agreed that the real reason was *PROSHIKA's* barely disguised alignment with the main opposition political party, the Awami League. The message was clear. The government would allow the NGOs to carry on with their developmental activities relatively unhindered and even allow them to take a critical stand on political issues broadly defined (e.g. weak governance, human rights, etc.), but it would not tolerate overtly adversarial activity. With rare exceptions, the NGOs of Bangladesh have tacitly accepted this Faustian bargain, which has helped them in no small measure to secure an expanding institutional space. The consequence, inevitably, was that the NGO community confined itself mostly to service delivery and to some extent advocacy for citizen's participation in certain parts of decision-making processes, but remained relatively shy when it came to promoting voice in accountability.

VIII. PROGRESSIVE REALISATION OF RIGHTS

The assessment carried out in the earlier sections on policy contents with regard to the rights to food, health and education clearly demonstrates that while significant progress has been made in expanding the physical availability of food, healthcare and educational facilities, serious deficiencies remain in ensuring accessibility, quality and equity. This is partly a consequence of the absence of participatory decision-making and accountability mechanisms, as discussed in section VI above. But partly this is also a consequence of inadequate resources being devoted to the cause of realising these rights. This raises the question of whether the government of Bangladesh has been failing to discharge its obligation to fulfil its people's right to development.

In answering this question, it should be noted first that in a situation of overall resource constraint inadequate allocation for specific rights does not in itself suggest failure on the part of the government to discharge its obligations. What matters is whether the government is taking seriously the idea of progressive realisation of rights by mobilising resources and allocating them to the fulfilment of rights in the best possible manner. This calls for an examination of the evolving pattern of public expenditure. This is what the present section proposes to do, with specific reference to the rights to health and education.

The evidence for the last three decades is shown in Tables IV and V. Table IV shows the trend in public expenditure on education and health (including family planning) as shares of total budget expenditure (development and revenue budgets combined) and Table V presents the figures as percentage of GDP. These tables reveal that the share of budgetary resources allocated to health and education steadily increased from around 14 per cent in the early 1980s to about just over 20 per cent in the mid-1990s, but has virtually stagnated since then. The same trend is revealed when the allocation to health and education is expressed as a proportion of GDP—it increased steadily from 1.6 per cent in the early 1980s to 3.0 per cent in the second half of the 1990s, but then stagnated thereafter.

Two features of these numbers are worth noting. First, the rise in the share of health and education occurred during a period when Bangladesh was undertaking structural adjustment programmes of the kind that has typically been associated with declining shares of basic services in many other parts of the world. This has to be seen in a positive light. Second, the stagnation in the share of health and education has occurred in a period when Bangladesh was experiencing accelerated growth. This can only be seen in a negative light.

It has to be acknowledged, though, that by reaching the 20 per cent mark in terms of budgetary share devoted to health and education, Bangladesh has fulfilled

its 20-20 compact with the donor community, in which both the government and the donors committed to keep aside at least 20 per cent of their respective funds for these two sectors (UNDP *et al.* 1998). This is more than can be said for many other developing countries. However, while giving due credit to the government of Bangladesh for reaching this landmark, it must also be acknowledged that this achievement cannot be used to justify the stagnation in the share that is observed in the last decade. For, the fact remains that despite reaching the 20 per cent mark in terms of share, the absolute amount of resources devoted to health and education is still woefully inadequate by international standards. This can be seen in Table VI where Bangladesh's experience is compared with other South Asian countries.

TABLE IV
GOVERNMENT EXPENDITURE ON HEALTH AND EDUCATION
(PERIOD AVERAGES)

(percentage shares of the budget)

	1981-85	1986-90	1991-95	1996-00	2001-05	2006-10
Current Expenditure						
Education	6.33	8.93	9.97	10.12	9.80	11.27
Health	2.23	2.87	3.25	3.18	3.29	3.92
Education and Health	8.56	11.80	13.23	13.30	13.09	15.19
Development Expenditure						
Education	2.22	2.08	3.84	5.94	5.07	4.03
Health	2.88	2.22	3.53	3.65	2.94	2.74
Education and Health	5.11	4.30	7.38	9.60	8.01	6.77
Total Budgetary Expenditure						
Education	8.55	11.01	13.82	16.06	14.87	15.30
Health	5.11	5.09	6.79	6.83	6.23	6.66
Education and Health	13.66	16.10	20.61	22.90	21.10	21.96

Source: Compiled by the author from various statistical publications of the Government of Bangladesh.

Note: Health expenditure includes expenditure on family planning. All expenditures are actual figures, except for the year 2009-10, which is a revised budget estimate.

TABLE V
GOVERNMENT EXPENDITURE ON HEALTH AND EDUCATION (AS PERCENTAGE OF GDP)

	1981-85	1986-90	1991-95	1996-00	2001-05	2006-10
Current Expenditure						
Education	0.73	1.03	1.23	1.33	1.36	1.59
Health	0.26	0.33	0.40	0.42	0.46	0.55
Education and Health	0.98	1.36	1.64	1.74	1.82	2.14
Development Expenditure						
Education	0.26	0.24	0.49	0.78	0.70	0.57
Health	0.33	0.26	0.44	0.48	0.41	0.39
Education and Health	0.59	0.50	0.93	1.26	1.11	0.95
Total Expenditure						
Education	0.98	1.27	1.73	2.11	2.07	2.15
Health	0.59	0.59	0.84	0.90	0.87	0.94
Education and Health	1.57	1.86	2.57	3.00	2.93	3.09

Source*:* Compiled by the author from various statistical publications of the Government of Bangladesh.

Note: Health expenditure includes expenditure on family planning. All expenditures are actual figures, except for the year 2009-10, which is a revised budget estimate.

In 2008-09, the government of Bangladesh spent US $18 per capita in health and education, as compared with $23 by Nepal, $26 by Pakistan, $46 by India and an exceptionally large $79 by Sri Lanka. Bangladesh thus stands at the bottom of the league. The argument that Bangladesh spends so little because it is after all one of the poorest countries in the region has some validity, but it does not entirely exonerate the policymakers of Bangladesh for a number of reasons. First, Nepal, which is even poorer than Bangladesh, spends nearly one-third more. Second, as a proportion of GDP, the amount the government of Bangladesh spends is the lowest in the region (except Pakistan); so it is not simply a matter of having a low resource base. Third, looking at the pattern of change over time, one finds that the rate at which Bangladesh has increased per capita spending on health and education in recent years is far less than what its neighbours have achieved. Whereas all other countries in the region more than doubled their per capita spending on health and education during the period from 2000/01 to 2008/09, Bangladesh managed to achieve only a 50 per cent increase. And this happened despite the fact that the economic growth achieved by Bangladesh during this period was second only to

India's.[35] Clearly, Bangladesh is not moving towards progressive realisation of rights—in terms of allocation of resources—as fast as the rest of the region.

TABLE VI
PUBLIC EXPENDITURE ON EDUCATION AND HEALTH IN SOUTH ASIAN COUNTRIES

	2000/01	2004/05	2008/09
Per capita expenditure (US $)			
Bangladesh	11.43	12.17	18.18
India	20.41	24.86	46.06
Pakistan	12.21	19.65	26.56
Nepal	8.54	12.19	23.00
Sri Lanka	35.65	38.98	79.72
Percentage of GDP			
Bangladesh	3.16	2.76	2.93
India	4.52	3.99	4.38
Pakistan	2.38	2.74	2.68
Nepal	3.30	3.72	4.93
Sri Lanka	4.10	3.67	3.96
Percentage of total budgetary expenditure			
Bangladesh	21.71	19.16	20.66
India	15.95	13.99	14.74
Pakistan	13.95	15.94	13.49
Nepal	19.64	24.60	24.31
Sri Lanka	15.37	16.10	17.53

Source: Author's calculation from national statistical sources.

Note: Dollar values refer to current price values in local currency converted into US dollar by respective year's exchange rate.

To explore the issue a little further, it may be noted that Bangladesh actually compares rather favourably with its neighbours when the spending on health and education is expressed as share of budgetary expenditure. Along with Nepal, it is the only country in the region that has reached the 20 per cent mark (Table VI). This

[35] In making these comparisons, it needs to be borne in mind that the comparability of dollar values is marred somewhat by the fact that different countries in the region have followed different exchange rate policies during this period—some allowing depreciation and others resisting it in varying degrees. The fact that these values are not expressed in PPP dollars is also a problem. Nonetheless, the differences seem to be large enough to survive further methodological refinements.

indicates that the problem of low spending (in absolute terms) does not emanate primarily from any stinginess in the process of sectoral allocation of resources, which, as noted earlier, has in fact been quite generous to health and education in the 1980s and 1990s (though not so much in the 2000s).

The main problem lies in the fact that total budgetary resources at the command of the government are inadequate. This is evident from Table VII, which shows that public expenditure accounts for only 15 per cent of GDP in Bangladesh, as against 20 per cent in Nepal and Pakistan, 23 per cent in Sri Lanka, and 31 per cent in India. In turn, low public spending is a reflection of poor effort in raising revenue for the government. Thus, government revenue as a proportion of GDP stood at only 11 per cent in Bangladesh in 2008/09, compared with 14-15 per cent in Nepal, Pakistan and Sri Lanka, and as much as 22 per cent in India.

And there lies the root of the problem. Bangladesh is simply not harnessing enough resources for meeting people's right to development as a whole. As a result, although it has been allocating generously to health and education in relative terms, the absolute amount of resources being used to promote the rights to health and education are both lower and rising more slowly than is the case with its neighbours in South Asia.

TABLE VII
GOVERNMENT REVENUE AND EXPENDITURE IN SOUTH ASIAN COUNTRIES

	2000/01	2004/05	2008/09
Total public expenditure as percentage of GDP			
Bangladesh	14.75	15.01	15.31
India	28.33	27.62	31.18
Pakistan	17.05	17.19	19.87
Nepal	16.79	15.10	20.26
Sri Lanka	26.70	22.81	22.58
Total government revenue as percentage of GDP			
Bangladesh	9.60	10.57	11.25
India	18.02	19.55	21.92
Pakistan	13.14	13.85	14.53
Nepal	11.07	11.90	14.47
Sri Lanka	16.84	14.90	14.86

Source: Author's calculation from national statistical sources.

The obligation to ensure progressive realisation of rights by devoting maximum possible amount of resources to the advancement of specific rights actually entails two distinct obligations—(a) to *allocate* more of available resources to the

fulfilment of specific rights, and (b) to *mobilise* resources as expeditiously as possible so that more resources can be used for the fulfilment of all kinds of rights. Bangladesh has done relatively well with regard to the first part of the obligation—by being among only a few developing countries that have raised the share of health and education in public expenditure above 20 per cent, but it has failed singularly to meet the second part of the obligation.

Even on the first part, however, more can be done. First, the share of budgetary resources going to health and education can be enhanced even further, as Nepal has successfully done despite the fact that its overall resource constraint is no less severe than that of Bangladesh. Secondly, and more importantly, given the amount of resources allocated to a particular sector, the intra-sectoral allocation of resources can be improved so as to make a bigger impact on the fulfilment of rights. The health sector is a case in point. There are reasons to be concerned about the emerging pattern of allocation of resources among different levels of public healthcare system.

Traditionally, a larger part of the government's health budget has gone to service facilities at the *upazila* level and below. During the 1980s and 1990s about half of total expenditure on health was being spent on primary health care, which is provided mostly at these lower level facilities (MOHFW 1995). This proportion went up to 60-70 per cent in the late 1990s with the introduction of the *Essential Services Programme* (ESP), which was highly successful in diverting more resources into primary level care, in focusing resource flows into vital services such as maternal care and in shifting resources from secondary and tertiary hospitals to lower-level facilities (MOHFW 2001). By 2001-02, approximately 60 per cent of the total health budget came to be channelled to these lower-level health facilities. Insofar as these facilities are used mostly by rural people, who are on average poorer than the urban people, this pattern suggests a degree of vertical equity in the distribution of public spending. Moreover, the equity effect is reinforced by the fact that most of the services provided at these levels are in the nature of free primary health care and nutritional and family planning services, which are more pro-poor than the services provided at higher levels.[36]

[36] Combining household income data from the *Household Income and Expenditure Survey* of 2000 with the health expenditure data from HEU (2003), Glinskaya (2005) has found that the *Essential Services Package* (ESP) that was administered at *upazila* levels and below was the only item of government expenditure (along with primary education) that was strongly pro-poor—in the sense the poor received a greater share of these subsidies than the non-poor. By contrast, overall public expenditures on health (and education) were not strongly pro-poor in the above sense; however, they were weakly pro-poor in the sense that they were distributed more equally than overall private expenditure.

There is a worrying sign, however, that this pattern has been reversed in recent years. The share of resources going to the *upazila* level and below has declined from 60 per cent in 2001-02 to 51 per cent in 2003-04 and further to 42 per cent in 2005-06 (MOHFW 2008a). As a recent review of the ongoing *Health, Nutrition and Population Sector Programme* (HNPSP) has noted, "A key area of concern is the declining share of the budget going to upazila and below. The program needs to re-focus on those essential health, nutrition and population services. This would mean seeing the share of the budget allocated to upazila and below levels rising substantially, including on the service delivery—essential obstetric care, nutrition, MCI, and family planning" (MOHFW 2008b, p.7).

Another aspect of intra-sectoral allocation is distribution of resources across districts with a view to achieving horizontal equity. Comparison of per capita spending on healthcare across districts reveals a mixed picture in this regard. The overall distribution happens to be biased against the poorer districts in that the richer districts have traditionally enjoyed a higher per capita spending than the poorer ones. The redeeming feature, however, is that the poorest districts (those with poverty ratio of more than 48 per cent) have enjoyed a faster growth of spending than the richest ones (those with poverty ratio of less than 24 per cent). Thus, during the six-year period from 1990/00 to 2005/06, the growth of spending was 52 per cent growth in the poorest districts as against 24 per cent in the richest ones. However, this egalitarian tendency is tempered by the fact that the biggest growth of spending was enjoyed by the second richest districts (with poverty ratio between 24 and 29 per cent) (HEU 2007).

The problem of intra-sectoral allocation exists also in the food sector. It is a matter of some concern from the point of view of the State's obligation "to provide" that over time relatively fewer resources are being allocated to the public food distribution system. The average share (average of five years) of targeted programmes in public expenditure had increased from 5.4 per cent during the first half of 1990s to 6.5 per cent during the second half of the1990s, but then declined to 4.1 per cent during the first half of the current decade. More recent data are not directly comparable with the earlier ones because of some definitional changes, but they also exhibit the downward trend.

Apart from resource allocation, another important feature of progressive realisation of rights is that the government must prepare a clear time-bound plan of action for achieving various rights within a specified time frame, setting out a series of final and intermediate targets. All policies and resource allocations must be guided by the overriding objective of achieving those time-bound goals. The logic behind this requirement is that these benchmarks and targets provide the objective

basis of assessing whether progressive realisation is occurring at the desired pace and of holding the State to account if it is not.

Successive Five-Year Plans adopted by the government of Bangladesh have routinely set targets and proposed policies and programmes with the ostensible objective of achieving those targets. A more elaborate exercise of this kind was undertaken by the first PRSP. Taking the *Millennium Development Goals* (MDGs) as a frame of reference, it set out a number of targets to be achieved by the year 2015 as well as a corresponding set of intermediate targets to be achieved by five-yearly intervals.

This was a step in the right direction, but from a rights-based perspective it was inadequate in a fundamental sense. Neither were these targets set through a truly participatory process, nor was any accountability mechanism put in place to ensure that the government could not get away by failing to meet these targets through malfeasance or negligence. The problem is that unless the targets are set through a participatory process, reflecting a consensus that the targets set are actually the best the State could do in view of its overall resource constraint, they do not really serve the purpose, which is to monitor the State's effort at ensuring that progressive realisation of rights is achieved "as expeditiously and efficiently" as possible. What if the government unilaterally sets targets that are deliberately kept low, so as to avoid the rigours of making a serious effort at mobilising resources and reducing inefficiency and corruption? Similarly, in the absence of effective accountability mechanisms, targets are pretty useless as monitoring tools, even if they were arrived at through a truly participatory process. As discussed in section VII above, genuine participation and accountability are among the scarcest attributes of the policy regime in Bangladesh. Without them, one cannot say that the target-setting of the kind adopted in PRSP and elsewhere conforms to the principles of progressive realisation of rights as understood by the human rights literature.

IX. CONCLUDING REMARKS

While Bangladesh still ranks among the "least developed countries" of the world, there are encouraging signs of progress, especially during the last couple of decades. The extent of chronic hunger and poverty has perceptively declined; the economy has acquired a welcome resilience against occasional natural disasters; gender disparity in education and labour force participation has considerably narrowed; enrolment in primary education has increased sharply; and child mortality has declined at a rapid rate thanks mainly to effective control of infectious childhood disease through a vastly expanded immunisation programme, extensive use of oral rehydration therapy against diarrhoea, and better access to safe drinking water. All this has led to greater enjoyment of a number of socio-economic rights

such as the right to food, the right to education, and the right to health. The fact that greater enjoyment of these rights has been accompanied by acceleration in economic growth, albeit modest, is especially encouraging because growth is essential for achieving and sustaining fuller utilisation of rights.

Against these positive achievements, however, there are a number of negative features in the political economy of Bangladesh that militate against fuller realisation of the right to development.

First, insofar as the indicators of the right to development exhibit a positive trend in Bangladesh, they relate mainly to aggregate quantity of resources and services that are necessary for realising various socio-economic rights. Progress is much less pronounced when it comes to ensuring equity of access to those resources and services, and the situation is pretty dismal with regard to the quality of services. Satisfactory outcome in the space of equity and quality is at least as important as aggregate quantity from the perspective of the right to development.

Second, with a few exceptions, Bangladesh has failed to adopt policies that exploit the interdependence and complementarity among various rights. The exceptions are a few specific programmes such as *Food for Education* (FFE) and the *Integrated Programme for the Elimination of Child Labour* (IPEC). The major failure has occurred at the macroeconomic level of budgetary allocation of resources. Sectoral allocations among food, health, education sectors, etc. have been guided almost exclusively by sector-specific considerations, rather than by interdependence among them. This is a serious shortcoming from the perspective of the right to development, which takes an integrated view of all rights.

Third, the right to development is not just about outcomes but also about the process of development. One of the rights encompassed by the composite notion of the right to development is the right of individuals to participate in decision-making processes that lead to the policies and programmes designed for promoting development. Bangladesh has been badly lagging in this regard. A good deal of lip service is of course being paid to the importance of people's participation in recent years, but not much has been happening in practice. To the extent that participation has taken place, it has been neither sufficiently broad-based nor effective.

Fourth, ensuring effective operation of accountability mechanisms is an essential aspect of the right to development approach. Bangladesh's record in this regard is pretty dismal. Neither at the level of local governance nor at the national level, do adequate accountability mechanisms exist for the right-holders to seek redress against violation of their rights. At the local level, some attempt was made to make the health delivery services more accountable to the beneficiaries, but it has yet to succeed. At the national level too, attempts to develop the institutions of

accountability have remained at the level of aspiration. Despite the existence of a democratic system of governance for the most part of last two decades, the political parties have failed to muster sufficient political will to take the necessary steps. Apart from enacting the Right to Information bill and setting up the long-awaited Human Rights Commission in recent months, they have done precious little. In fact, they have done the opposite—going at great lengths to thwart and sabotage the emergence of effective accountability mechanisms. A segment of the civil society has been trying hard to bring pressure to bear on successive governments so as to bring about necessary changes, but the goal has proved mostly elusive so far.

Fifth, progressive realisation of rights is being seriously impeded because of the state's failure to raise revenues even to the levels achieved in other countries at similar levels of income. To their credit, successive governments have allocated increasing share of the budget to health and education, but because of the low revenue base expenditure on social sectors is not rising fast enough to meet the obligation of achieving progressive realisation of rights as expeditiously as possible.

In conclusion, by way of limitations of the present study, we may point out a couple of areas to which the study has not paid the attention they deserve. First, on the issue of equity and non-discrimination, special attention ought to be paid to the plight of the indigenous people (i.e., the tribal people, in the context of Bangladesh), who are often marginalised from the process of development. The present study has not addressed this important aspect of the right to development. Second, while assessing the obligations of duty-bearers, the study has focussed exclusively on the State of Bangladesh as the duty-bearer, but there are other duty-bearers too—in particular other States and non-State actors (such as local and multinational business corporations). The focus of the study is consistent with the basic premise of human rights law that each Nation State is primarily responsible for realising the right to development of the people living within its jurisdiction. But the obligation of other duty-bearers cannot be altogether ignored. Future research on the right to development in Bangladesh ought to fill these gaps, among others.

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