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WORKING PAPER
on
PROMOTING PRIVATE SECTOR PARTICIPATION
in NWFP through the FRONTIER EDUCATION
FOUNDATION

Prepared for: **Human Resource Development Office**
USAID
Islamabad

Submitted by: **Shahnaz Wazir Ali**
for AED
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**DRAFT OF THE PROPOSED
NWFP EDUCATION FOUNDATION ACT 1991**

AN ACT

to provide for the establishment of the Frontier Education Foundation.

Preamble. WHEREAS it is expedient to make provisions for the establishment of the Frontier Education Foundation to promote and finance the development of private sector education in the NWFP Province and matters ancillary, incidental and supplemental thereto;

1. Short title, extent and commencement.

- (1) This Act may be called the Frontier Education Foundation (Act) 1991.
- (2) It extends to the whole of the NWFP Province.

2. Establishment of the Foundation

- (1) The government may, by notification, establish a Foundation to be known as the "Frontier Education Foundation".
- (2) The Foundation shall be an autonomous body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.
- (3) The Head Office of the Foundation shall be at Peshawar.

3. Board of Directors.

- (1) The Board shall consist of:
 - a. Chairman - Chief Minister of NWFP
 - b. A nominee of the Government of NWFP
 - c. A nominee of the Federal Govt of Pakistan
 - d. A nominee each of every International donor agency/organization which contributes not less than 50 million Pak rupees as lump sum.
 - e. A nominee of every Pakistani Organization or individual contributing not less than 30 million Pak rupees in lump sum.
 - f. Two distinguished educationists to be nominated by the Govt of NWFP.
 - g. A distinguished social worker of NWFP.

- (2) The Executive Secretary shall not be personally responsible for the acts of any other Director, advisor, officer or employee of the Foundation which he could not have reasonably prevented by the due exercise of his powers and functions under this Act and the rules and regulations made thereunder or for any loss or expense resulting to the Foundation by reason of the insufficiency or deficiency in value of, or title to any property or security acquired or taken on behalf of the Foundation by the wrongful act of any person under a liability to the Foundation or anything done by him in good faith in execution of the duties of his office.

9. Delegation of powers. The Board may delegate to any officer, authority or employee of the Foundation any of its powers, duties or functions.

10. Business of the Board.

- (1) The meetings and the business of the Board shall be conducted in such manner and according to such procedure as may be prescribed and until these matters are prescribed, as may be determined by the Board.
- (2) No act or proceedings of the Board shall be invalid merely on the ground of the existence of any vacancy in or any defect in the constitution of the Board.

11. Functions of the Foundation.

- (1) The Foundation shall take all such measures as it deems necessary for the promotion, development and financing of private sector education.
- (2) Without prejudice to the generality of the functions mentioned in sub-section (1), the Foundation shall:
- a. Assist the Private Sector in the establishment of schools.
 - b. Give interest free funds to eligible educational institutions for purchase of land, construction of buildings, purchase of equipment, furniture and educational materials including books, stationery and other such materials and for meeting recurring expenditure.
 - c. Give other soft term loans from the Foundation fund for the purposes mentioned in 2b.
 - d. Assist private sector in securing bank loans for establishment of schools.

- e. Assist in getting plots and land from Government, Development Authorities and Housing Agencies controlled by the Government.
- f. Give financial assistance for the establishment of teachers training institutions.
- g. Perform such other functions as may be assigned to it by the Government.

12. Foundation Fund.

(1) There shall be a Fund to be known as the "Foundation Fund" which shall vest in the Foundation and to which shall be credited:

- a. Grants made by NWFP Government and the Federal Government.
- b. Income from investments made by the Foundation.
- c. Donations and endowments from local and foreign entities.
- d. Revolving funds placed by the Government at the disposal of the Foundation.
- e. Grants made by the Local Bodies and
- f. all other sums received by the Foundation and incomes from other sources.

(2) The Fund shall be kept in such custody and shall be utilized and regulated in such manner as may be prescribed by the Board.

13. Budget, Audit and Accounts. The budget of the Foundation shall be approved and its accounts shall be maintained and audited in such manner as may be prescribed by the Board.

14. Rules. The Government may, by notification, make rules for carrying out the purposes of this Act.

15. Regulations. Subject to this Act and the rules framed thereunder, the Board may make regulations for all matters not provided for in the rules for which provision is necessary for carrying out the purposes of this Act.

Dated, Peshawar

GOVERNOR OF THE NWFP

**WORKING PAPER
ON THE
Proposed FRONTIER EDUCATION FOUNDATION**

OVERVIEW OF THE 1989-90 AND '90-91 ALLOCATIONS FOR EDUCATION

1. NWFP Govt spends approximately 25% of its budgetary resources on education which is the largest allocation for any sectoral activity in the Province.

2. In the 1990-91 budget a sum of Rs.3180 million has been earmarked for education - Rs.2605 million for current expenditure and Rs.575 million for development expenditure in this sector. The ratio of current to development expenditure comes to 4:1 which reflects the heavy imbalance existing within the allocations of this sector.

3. The current expenditure on education of Rs.2605 million constitutes 25% of the total current expenditure of Rs.105,58 million of the Province, while the development expenditure at Rs.575 million comprises 23% of the total development expenditure of Rs.2506 million.

The constraints of the present approach to tackle this problem are already serious. Even though NWFP is spending a quarter of its budget on education about 80% of these resources are going into meeting current expenditure needs of the existing schools, and only 20% is available for opening up of new educational facilities. If the existing pattern of expenditure on education continues, even a 5-10% increase in resource allocation to this sector will not substantially decrease the deficit and the gap.

4. Despite education receiving a substantial part of the provincial budgetary resources, the gap between demand and supply is widening and the province is not able to launch an effective programme to provide Basic/Primary education for all eligible children or to tackle illiteracy for school drop-outs. The present primary education cover for children of school going age is approximately 57%; when this is seen in the context of a dropout rate of 52% at the primary school level the gap is further widened. Enrollment and retention rates for female students are much lower than the above figures.

However, what can the provincial Govt do? It is already spending a quarter of its budgetary resources on education in the face of competing demands from other sectors. Besides the resource position of the province being what it is-with all its ADP financed out of funds from Federal Govt - the chances of pumping substantially larger funds into education are minimal on an inelastic resource base. If the Govt wants to reverse this trend of the widening gap between supply and demand of educational facilities, it must think of a structural and qualitative change in its approach to meeting the educational needs of its people.

PRIVATE SECTOR PARTICIPATION

With a new approach to education i.e. encouragement of private sector participation - it will be possible for Govt to shift larger resources towards opening of new facilities without greatly increasing its overall budgetary allocations for education. But in the existing scheme of things - private sector i.e. all non-governmental institutions and individuals tend to shy away from participating in this endeavor. There are a number of reasons why the private sector even where it has the desire, the skill and resources to open and manage schools and educational facilities, is hesitant to undertake this activity. The main reasons are:

- a. Govt Policy and Education Deptt. procedural obstacles.
- b. Non availability of credit to finance the endeavor.
- c. Prohibitive cost of land at commercial rates.
- d. Rising commercial rates for utilities such as electricity, gas water and telephone; and rapidly rising rents and school buildings
- e. Multiple taxes such as property tax, income tax, education cess, EOAB.
- f. Shortage of trained teachers and virtual absence of training facilities for private school teachers.

Since the Nationalization of Education Act of 1974, provision of educational facilities remained mainly the responsibility of the Govt, till the early eighties when private sector took the initiative itself to re-enter the education sector in NWFP, However, the private sector growth has been markedly slower than in Sind or Punjab. Most non-Governmental sources of financing educational efforts in NWFP have dried up or have been diverted to other uses. Consequently the budgetary resources of the Govt are the mainly source of funding educational activities. As NWFP has been a deficit province and is barely able to meet its current expenditure requirements, its entire ADP is financed by loans from the Federal Govt. This places serious limitations on increasing the development allocations for opening up new schools and educational facilities. Furthermore, because of non fulfillment of certain conditions, some foreign assistance loans and grants for education are also not being utilized to

increase resource availability for education. Therefore, it has become imperative to mobilize all possible resources; Provincial contribution, Federal allocations, Foreign assistance, line of credit from Banks, local Council resources, as well as resources from public & private sector organizations and individuals to supplement the existing budgetary allocations, to mount an effective challenge to the rising gap between demand and supply of educational facilities.

But the non-Governmental sectors/organizations and individuals will not participate in this endeavor, unless a conducive atmosphere is created, wherein their participation and role is encouraged, actively supported and made attractive enough for them to consider investment in education, not only as a social and moral obligation, but as a profitable investment.

INSTITUTIONAL FRAMEWORK FOR FINANCING PRIVATE SECTOR EDUCATION THROUGH THE FRONTIER EDUCATION FOUNDATION

In spite of the Govt providing the largest budgetary allocation for this sector, the existing sources of financing education remain inadequate to meet the objective of increasing access to education. There is not much more that can be generated from these sources for new expanding educational facilities, since other sectorial demands are also pressing for more funds from budgetary allocations, while provincial resources and obligatory assistance from Federal Govt are barely enough to meet the current expenditure of the provinces.

It is therefore felt that there is a need to find new sources of funding educational development. Such as a resource mix of govt and non-governmental sources which is elastic and is managed in a professional, business like manner to provide continuing support to private sector participation in education.

Sources of Financing

- a. It is proposed to set up a Frontier Education Foundation with a Foundation Fund (FF) which may initially be contributed by Provincial and Federal governments and to which contributions from local and foreign entities interested in supporting private sector education may be made. It would also be possible to create linkage of this Fund with a credit line from a Nationalized Commercial Bank or DFI to create a mix of soft government financing and bank lending to finance opening of new schools by private entrepreneurs at reasonably concessional rates to make this an attractive proposition.

- b. A look at provincial sources of revenue indicates that the highest revenue yielding tax is the Motor Vehicle Tax levied under Motor Vehicle Act. It has a large base and is paid by owners of domestic & commercial vehicles who comprise the middle and upper middle classes of society. Thus the two main characteristics of good taxation -

elasticity and equity are comfortably met by using this tax to raise additional provincial resources for the FF.

- c. Extra budgetary support from Federal Govt has been available to the NWFP Govt in the shape of Special Development Programme (SDP) and other grants and loans which in 1989-90 amounted to Rs. 748 million but have not been indicated in the current years budget documents. This seems an appropriate source of contribution to the FF. Taken together, these provincial and Federal sources could be tapped to raise the initial seed money for FF (about Rs.200 million) Contributions to this fund may also be made by local and foreign entities under certain guidelines, and a matching fund agreement could be worked out with an NCB/DFI to give line of credit to the projects financed out of FED. The matching fund agreement would enlarge the resource base to support private sector participation in education.

- d. An important breakthrough in inducing private sector participation in development of education would come when education-especially primary education is declared on industry and entitled to monetary and fiscal concessions and recognized as a priority area for development. This would provide for annual credit ceiling for financing of educational programmes by private and public sector to be utilized through various NCBs and DFIs. As concessionary credit has been available under this facility for some of the priority areas like small agricultural loans, export finance, and locally manufactured machinery (LMM), it should be possible to provide a similar facility of concessionary credit to primary education, while secondary and higher education may have access to normal financing under this credit line.

Line of Credit from Banks

Through nationalized banks, Government has been following the policy of providing, adequate credit for preferred sectors of economy. This is achieved by fixing mandatory credit targets for banks in respect of such sectors. The objective of such a policy has been to provide adequate liquidity to accelerate growth in the desired sectors of economy and to discourage credit flowing into speculative and less productive sectors.

The nationalized banking sector also provides concessionary finance to select sectors e.g.

-Export finance

-Finance for sale export of locally manufactured machinery

-Small agricultural production loans of upto Rs.12000

In the scheme of total credit supply through the banking sector the concessionary credit constitutes 10.4% of the total credit supply to private and public sector enterprises. A criterion for financing private sector schools, has been designed with a view to have a fair and rationalized system of funding to act as an incentive to private sector to invest in education. The quantum of concessional finance has been tied to a star system indicating priority areas and sections of society needing most attention.

Total cost of Project (school) will be financed in the following manner:

- | | | |
|----|------------------|-----|
| a. | Sponsor's equity | 10% |
| b. | Loan (Govt+Bank) | 90% |

The loan component will be divided between financing from FED (60%) and Bank loan (30%). while bank credit would be available to the sponsor at normal rates, concessionary finance from FED would be given under the criteria which requires setting up schools in the most needy and backward areas/sections of society. Accordingly 30% concessionary credit from FED would be available for primary schools, female schools, and rural schools - each of these categories are denoted by a star. Thus a school with 3 stars will be entitled to 90% concessionary credit from FED (i.e no interest charged); a two star school will be entitled to 60% concessionary credit, and one star school to 30% concessionary credit. The non-concessionary credit

from FF would be available at 3% service charge. A no star school would therefore be entitled to FF financing at 3%.

Financial Incentives for Private Sector Schools through a scheme of Mixed/Concessional Credit is illustrated in the attached table.

Assuming cost of setting up a school is Rs. 10 lacs.

SOURCES OF FINANCING

10% Sponsor's Equity	1 Lac
90% Loan	
50% FF	6 Lac
30% Bank	3 Lac

COST OF FINANCING

0* SCHOOL

Equity	
0% (00) at 0%] 3%
100% (6.0) at 3%	
14%	

1* SCHOOL

Equity	
30% (1.8) at 0%] 2.10%
70% (4.2) at 3%	
14%	

2 SCHOOL**

Equity	
60% (3.6) at 0%] 1.20%
40% (2.4) at 3%	
14%	

3* SCHOOL**

Equity	
90% (5.4) at 0%] 0.3%
10% (0.6) at 3%	
14%	

Net Cost of financing

7.45%

6.10%

5.46%

4.87%

No * Schools
Male, Middle, Urban
Male, Secondary, Urban

One* Schools
Female, Secondary, Urban
Female, Middle, Urban
Male Primary, Urban
Male Secondary, Rural
Male Middle, rural

Two* Schools
Female, Primary, Urban
Female, Secondary, Rural
Female, Middle, Rural
Male, Primary, Rural

Three* Schools
Female, Primary, Rural

W. L. F.
W. L. F.

Document

The Punjab Education Foundation Ordinance

THE following is the text of the Punjab Education Foundation Ordinance promulgated by the Punjab Government on February 19:

PREAMBLE: WHEREAS it is expedient to make provisions for the establishment of the Punjab Education Foundation to promote and finance the development of education in the Province of the Punjab and matters ancillary, incidental and supplemental thereto;

AND, WHEREAS, the Provincial Assembly of the Punjab is not in session and the Governor of the Punjab is satisfied that immediate action is necessary;

NOW, THEREFORE, in pursuance of the powers conferred on him under clause (1) of Article 128 of the Constitution, the Governor of the Punjab is pleased to make and promulgate the following Ordinance:-

1. SHORT TITLE, EXTENT AND COMMENCEMENT: (1) This Ordinance may be called the Punjab Education Foundation Ordinance, 1991.

(II) It extends to the whole of the Province of the Punjab.

(III) It shall come into force at once and shall take effect on and from the date the Punjab Education Foundation Ordinance, 1990 (Punjab Ordinance No. XXVI of 1990) stands repealed under Article 128(2) of the Constitution.

2. ESTABLISHMENT OF THE FOUNDATION: (1) The Government may, by notification, establish a Foundation to be known as the "Punjab Education Foundation".

(II) The Foundation shall be a body corporate having perpetual succession and a common seal with power to acquire hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

(III) The Head Office of the Foundation shall be at Lahore.

3. BOARD OF DIRECTORS: There shall be a Board of Directors including the Chairman as may be appointed by the Government.

4. MANAGEMENT: (1) The administration and management of the Foundation and its affairs shall vest in the Board of Directors which may exercise the powers exercisable, and do all acts and things that may be done by the Foundation.

(II) The affairs of the Foundation shall be conducted subject to the supervision and control of the Government.

5. MANAGING DIRECTOR: (1) The Government shall appoint a Managing Director of the Foundation whose qualifications and terms and conditions of service shall be such as may be determined by the Government.

(II) Subject to sub-section (III), the term of office of the Managing Director shall be

efficiency, unsuitability or misconduct after giving him an opportunity of being heard.

(IV) The Managing Director shall be the Chief Executive of the Foundation and shall perform such functions as may be prescribed or assigned to him by the Board.

6. COMMITTEES: The Board may constitute such financial, technical and advisory committees as may be deemed necessary for carrying out the purposes of this Ordinance.

7. APPOINTMENT OF OFFICERS, ETC: The Foundation may employ such officers, advisers, consultants and employees in its service as may be necessary for the efficient performance of its functions in such manner and on such terms and conditions as may be prescribed.

8. IMMUNITY OF THE FOUNDATION AND ITS EMPLOYEES: (1) Every Director, adviser, officer and employee of the Foundation shall be indemnified by the Foundation against all losses and expenses sustained or incurred by him in the discharge of his duties, save such losses and expenses as are sustained and incurred as a result of his own willful act or default.

(II) The Managing Director shall not be personally responsible for the acts of any other Director, adviser, officer or employee of the Foundation which he could not have reasonably prevented by the due exercise of his powers and functions under this Ordinance and the rules and regulations made thereunder or for any loss or expense resulting to the Foundation by reason of the efficiency or deficiency in value of, or title to, any property or security acquired or taken on behalf of the Foundation by the wrongful act of any person under a liability to the Foundation or anything done by him in good faith in execution of the duties of his office.

9. DELEGATION OF POWERS: The Board may delegate to any officer, authority or employee of the Foundation any of its powers, duties or functions.

10. BUSINESS OF THE BOARD: (1) The meetings and the business of the Board shall be conducted in such manner and according to such procedure as may be prescribed, and until these matters are prescribed, as may be determined by the Board.

(II) No act or proceedings of the Board shall be invalid merely on the ground of the existence of any vacancy or any defect in the constitution of the Board.

11. FUNCTIONS OF THE FOUNDATION: (1) The Foundation shall take all such measures as it deems necessary for the promotion, development and financing of education.

(II) Without prejudice to the generality of the functions mentioned in sub-section (1), the Foundation shall -

(a) establish or cause to be established educational institutions and such allied projects;

materials including books, stationery and other such materials and for meeting recurring expenditure;

(c) give loans from the Foundation (and or assist in getting loans from scheduled Banks;

(d) sell or lease plots or assist in getting plots and land from Government, Development Authorities and Housing Agencies controlled by the Government;

(c) be responsible for promoting and financing-

i) surveys and studies to identify areas of mal-functioning in the educational system and suggesting remedies therefor;

ii) educational and innovation programmes particularly relating to attainment of universal literacy, training in employment-oriented skills and identification and education of the less gifted, disabled, retarded and problem children;

iii) research and field-scale testing of educational approaches, methodologies and technologies;

iv) activities of educational societies and arrangement of seminars, symposia, workshops and other such activities;

v) propagation of Islamic education, ideology and culture;

vi) modernization of curricula with emphasis on their religious and Islamic aspects;

vii) establishing special cells and units, the prior approval of Government, educational projects in less developed areas;

viii) procuring and distributing educational materials and tools to educational institutions;

ix) formulating and implementing schemes for training of teaching and other staff; and

x) improving the quality and standard of education, particularly in the privately managed institutions;

-(1) performed such functions as

i) preparing and submitting schemes to the Government for the development of educational programmes and projects including schemes for research and modernization of education;

ii) giving effect to approved schemes;

iii) improving teachers' training and other institutions;

iv) encouraging the formation of voluntary associations in furtherance of the purposes of this Ordinance;

v) taking appropriate measures for integration and consolidation of privately managed institutions and process, regulation of fees in the privately managed institutions particularly those receiving assistance from the Government; and

(c) perform such other functions as may be prescribed by the Government.

tion and to which shall be credited —

a) grants made by Government and the Federal Government;

b) income from investments made by the Foundation;

c) donations and endowments;

d) revolving funds placed by the Government at the disposal of the Foundation;

e) grants made by the Local Bodies; and

f) all other sums received by the Foundation and incomes from other sources.

(II) The Fund shall be kept in such custody and shall be utilized and regulated in such manner as may be prescribed.

13. BUDGET, AUDIT AND ACCOUNTS: The budget of the Foundation shall be approved and its accounts shall be

maintained and audited in such manner as may be prescribed.

14. RULES: The Government may, by notification, make rules for carrying out the purposes of this Ordinance.

15. REGULATIONS: Subject to this Ordinance and the rules framed thereunder, the Board may, with the previous approval of the Government, make regulations for all matters not provided for in the rules for which provisions are necessary for carrying out the purposes of this Ordinance and the rules.

16. DISSOLUTION: The Government may, by notification, dissolve the Foundation and make such incidental and consequential orders as may be necessary for the purpose.

17. REPEAL: The Punjab Education Foundation Ordinance, 1979 (Pb. Ord. No. XIV of 1979) is hereby repealed.

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