

# POVERTY AND HUMAN RIGHTS\*

The Universal Declaration of Human Rights, 1948 is a unique document,

a complete code recognizing the right of every human being to live with dignity; fundamental values such as freedom, justice, equality and peace. The Declaration incorporates within it, the principles in which the people must have faith and the legislations must make provision for, to achieve the goal where the body and soul of every human being would remain united not just for the sake of living, but for living with pleasure and dignity.

The Declaration recognized the fundamental fact to which history bears testimony, that, if a man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, it is essential that human rights should be protected by the rule of law. The people of the United Nations reaffirmed their faith in fundamental human rights, in the dignity and worth of humans and in equal rights of man and woman. They expressed their determination, in unmistakable terms, to promote social progress and better standards of human life. Thirty Articles, which the Declaration contains enjoin people and nations, subscribing to the United Nations ideology, to strive by teaching and education, to promote the concepts contained in the Declaration. The Declarations, some of which apposite to the day and the occasion, I may briefly refer to, to remind ourselves of them.

The Declaration says that all human beings are born free and equal in dignity and rights. Everyone has the right to life, liberty and security. No one shall be held in slavery or servitude. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. All are equal before the law and are entitled, without any discrimination, to equal protection of the law. Everyone has the right to freedom of thought, conscience and religion. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone who works has the right to just and favourable remuneration, ensuring for himself and his family an existence worthy of human dignity and supplemented, if necessary, by other means of social protection.

The beauty of the Declaration is that it not only codifies the rights but lays equal emphasis on remedies. Rights are meaningless unless accompanied by remedy and a forum which can unite the recognition of rights with relief by way of remedy.

Having read the Declaration, at times I wonder, was it a dream of the framers or were they daydreaming? If only the expectations of the Declaration would have come true, this world would have been nothing less than heaven. Alas! it isn't.

## **Declaration – the followup**

The Declaration adopted in 1948 was not left alone. In 1966, the wide range of rights essential for human worth and dignity were incorporated into legal instruments ..... “the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the parallel International Covenant on Civil and Political Rights (ICCPR). Both the UDHR and ICESCR lay down subsistence rights, particularly, the right to food and shelter, the right to a standard of living adequate for health and well being of oneself and one's family. Among other rights are included the right to own property, the right to social security, the right to work, the right to rest and

leisure, right to adequate standard of living, right to education and the right to participate in community life etc. Although these do not explicitly mention the right to protection against poverty as such but in substance these are rights against poverty.

On October 17, 1987, one lakh defenders of human rights from all walks of life assembled at the Plaza of Liberties and Human Rights, Trocadero, Paris, where the Universal Declaration of Human Rights was signed in the year 1948 to “pay homage to the victims of hunger, ignorance and violence...[and to] affirm their conviction that human misery is not inevitable”. The year of marked the first world-wide observance of this day, after it was proclaimed in the General Assembly Resolution 47/196 of 22nd December 1992.<sup>1</sup>

The World Summit for Social Development, held in March, 1995 in Copenhagen, Denmark, brought the question of poverty to the center stage. At the Copenhagen Declaration and Programme of Action, which was attended by leaders from 117 nations, it was pledged that their countries would eradicate poverty, promote full employment and foster stable, safe and just societies. The following commitment was made in its Declaration:

*“We commit ourselves to the goal of eradicating poverty in the world through decisive national actions and international cooperation, as an ethical, social, political and economic imperative of human kind.”*

Following the Summit, the U.N. observed the year 1996 as the “International Year for the Eradication of Poverty”. Its objective was to create “greater awareness of the fact that eradication of poverty is ..... fundamental to reinforcing peace and achieving sustainable development” and to catalyze concrete actions resulting in a “distinct and significant contribution to the efforts to eradicate poverty” (General Assembly Resolution 49/110 of 1994 which made the proclamation to declare 1996 as the “International Year for Eradication of Poverty”).

The U.N. General Assembly, in its Resolution 50/107 of December 20, 1995, declared to observe the First U.N. Decade for the Eradication of Poverty (1997-2006).

The U.N. Millenium Declaration (General Assembly Resolution 55/2 of September 8, 2000) repeatedly affirms the twin principles of global equity and shared responsibility. The Declaration emphasizes that “we will spare no effort to free our fellowmen, women and children from the abject and dehumanizing conditions of extreme poverty, to which more than a billion of them are currently subjected. We are committed to making the right to development a reality for everyone, and to freeing the entire human race from want.” (III Development and Poverty Eradication, para 11). The reference to documentation would not be complete without mentioning a great event, so far as we are concerned, and that is the adoption of the Constitution of India which followed the Declaration. The Preamble of the Constitution of India made a solemn promise of securing to all its citizens, Justice – social, economic and political; Liberty, Equality and Fraternity. It codifies several natural and basic human rights elevating them to the status of fundamental rights. Social order for the promotion of welfare of the people, equal Justice and free legal aid, right to work, to education and to public assistance, provision for just and humane conditions of work, living wages for workers, affirmative discrimination in favour of down-trodden and weaker sections of the society for historic or sociological factors – are the concepts included in various articles of the Constitution as Directive Principles of State Policy.

### **What is poverty?**

What is poverty and who is a poor person? W.C. Fields, an American comedian tried to bridge the gulf between rich and poor by coining a cynic definition. He said – “A rich man is nothing but a poor man with money”. The reverse is equally true – A poor man is one who could

have been rich but does not have money to make him so. Max Miller put it in a different way by saying – “It does not matter whether you are rich or whether you are poor – as long as you have money.” According to Dr. N.R. Madhava Menon, “Poverty is need. It is lack of opportunity. It is a state of helplessness to cope with hostile forces and exploitative institutions. It is absence of dignity and self-respect. It is vulnerability to injustice. It is a condition or relationship to society where poor people are made to feel that equality and freedom are rights, enjoyed by the privileged few only. Poverty breeds frustration, ill-feeling and a brooding sense of injustice occasionally erupting into lawlessness and violence. To be poor means not having enough income to meet basic needs of life.”

Upendra Baxi, the eminent jurist, brought out a compilation of Critical Essays on Law and Poverty in the year 1988, somewhere, near halfway between the day of our independence and today. He came down heavily on the use of the words ‘poverty’ and ‘poor’, as in his opinion these words tend to normalize what ought to be centrally problematic. ‘These words distance poor from the non-poor and almost absolve the latter from doing anything significant, individually or collectively, for the former’. He calls for a struggle to displace these words, substituting them by others which erase the complacency, complicity and cowardice which is induced by these words. He suggests the word ‘poverty’ being substituted with ‘impoverishment’ and the word ‘poor’ with ‘impoverished’. The reason? This substitution would draw attention to a vital fact that people are not naturally poor but they are made poor. “Impoverishment is a dynamic process of public decision making, in which it is considered just, right and fair that some people may become or stay impoverished.” Such decisions are made by people who hold public power whatever be the field of governance or authority exercised. He points out to the phenomenon that the impoverished, getting rid of poverty and being fortunate enough to move above the poverty line and joining the upper class or even the upper layer of the middle class, develop, a lack of concern for their fellow beings of yesterday and, at times, a vested interest in keeping the impoverished stay where they are, so that, their riches are not liable to be shared. The women, the children, the scheduled castes or the scheduled tribes and similar others suffer deprivation of human rights, not because they are biologically or socially so but because they are poor women, poor children, poor scheduled castes or poor scheduled tribes. Poverty is the biggest enemy of humanity and impoverishment is the worse of all human traits, unfortunately nurtured by human beings, themselves. However, it is not the want of money or lack of economic sources which alone accounts for poor and poverty, it is the lack of anything such as powerlessness, apathy, disorganization, alienation and anomie, which are some of the major attributes for defining and describing the poor. Poverty is not just an economic phenomenon; it is a culture of multiple disabilities, and deficiencies, transmitted across generations.

“Poverty is a great enemy of human happiness; it certainly destroys liberty and it makes some virtues impracticable and others extremely difficult.” (Samuel Johnson, Boswell, Life, iv. 157). How true it is, but those who live in comfort and plenty can hardly feel the agony and pain of the poor. Statistics can hardly capture the deprivation that poverty inflicts upon those who are affected by it. It has to be felt through the wet eyes of the poor who are only breathing – not living. One is reminded of these lines:

*“Whenever I walk this beautiful earth  
How many poor I see  
But as I never speak to them  
They never speak to me.”*

(Unknown, Travesty of Seaman's Bitter cry to the great unpaid)

In cold winter-nights, when we and our children are still huddling in the comforts of our cosy beds, little kids, as young as 5 years or 6 years, venture out for livelihood, with gunny bags on their backs, to pick up rags; children standing outside wedding *shamianas* or restaurants, with bowls in their hands waiting for left-overs, is a common sight.<sup>2</sup> I would like to share a scene which I witnessed a few years back and which left my heart bleeding. Two kids, between ages 6 and 8, were fiddling with the garbage, in dust-bins, outside the house opposite to my house. I became curious and wondered what they were at. After about ten minutes they started dividing their 'booty' and imagine what? Bits and pieces of bread, vegetables, apples etc., and they appeared to be on top of the world for these morsels.

Today, we have millions of beggars, thousands of women prisoners, thousands of children either in jails or in detention homes, lakhs of bonded labourers and millions of unemployed people, who, for want of means to satisfy their basic needs, are prone to taking to crime or terrorism as their vocation. Just three days ago, Dr. Justice A.S. Anand, the Chairperson of National Human Rights Commission, speaking to one of the newspapers (The Tribune) stated that sex tourism, too is spreading its tentacles in the cities of India and is no longer confined to countries like Thailand and Malasia. No female would, willingly or by choice, be prepared to be a sex worker except for satiating the abdominal fire. All these issues are in one way or the other relatable to poverty.

Look at the poverty speaking through statistics. According to Economic Survey 2003-2004, 27.1% of rural population and 23.6% of urban population, leading to a combined figure of 26.1%, were below the poverty line during the year 1999-2000. Going by world standards, poverty line has been set at one dollar i.e. approximately 44 rupees a day. This means, those earning less than one dollar a day are said to be below the poverty line. The number of people living below the poverty line, after more than 50 years of independence, is about 350 million, which is equivalent to the population of India at the time of independence.

Total unemployment in India has been estimated to be around 35 million persons in the year 2002.<sup>3</sup>

35% of the Indian population continues to be illiterate in the year 2001. Literacy rate amongst males is 50% higher than females and similarly, 50% higher in urban areas as compared to rural areas. The rates are significantly lower amongst scheduled castes and tribes. India has 300 million illiterate adults – the largest number of illiterates in the world.<sup>4</sup>

Out of approximately 200 million children, in the age group of 6-14 years, only 120 million are in schools and net attendance in the primary level is only 66 per cent of the enrolment. Further, less than 7% of the children ever pass the 10th standard public examination.<sup>5</sup> This means that 80 million children do not even go to school and out of those who go, 93% discontinue or do not even manage to pass 10th standard. Though the drop out rate at the elementary education stage has declined over the years, it is still relatively high, specially in the case of girl students, for whom the rates in 2001-2002 were 30.9% and 56.9%, at the primary and upper primary levels, respectively.<sup>6</sup>

### **80,000 villages are yet to get electricity<sup>7</sup>**

As on 31st December 2003, (As per the figures tabulated by NHRC), the number of persons in Indian prisons is 3,22,566, as against the capacity of 2,37,604. The number of undertrials are 2,28,036, which constitute 70.70% of the total prison population. 1660 children are in juvenile homes. 10,815 women are languishing in prisons. Why? Mostly, because of poverty. They cannot have effective access to justice.

Poverty has a spiraling effect for onset of several social malaise. Poverty leads to ignorance, unemployment, want of education and each one of them in its turn, contributes to insulating poverty against its eradication. This vicious circle has to be broken.

Do we have any solution, I ask this question to myself. We look around the world. There is capitalism, there is socialism, there is communism and so many other 'isms'. Look at any country with its governance wedded to any of the 'isms', poverty is there. It has survived the change of times. Geographical and historical limitations are not known to poverty.

### **Poverty – its causes?**

What are the root causes. I propose to confine only to our country.

First is the population. Bertrand Russell said – “population explosion is more dangerous than hydrogen bomb”. In *Javed v. State of Haryana*, AIR 2003 SC 3057, popularly known as the two-child norm case, the Supreme Court noticed the problem of population growth in India and observed “India has the (dis)credit of being second only to China at the top, in the list of the 10 most-populous countries of the world. As on 1-2-2000 the population of China was 1, 277.6 million while the population of India as on 1-3-2001 was 1,027.0 million (Census of India, 2001, Series 1, India – Paper I of 2001, page 29).

*“The torrential increase in the population of the country is one of the major hindrances in the pace of India’s socio-economic progress. Everyday, about 50,000 persons are added to the already large base of its population.” (paras 30 & 31).....“In the beginning of this century, the world population crossed six billion, of which India alone accounts for one billion (17 per cent) in a land area of 2.5 per cent of the world area. The global annual increase of population is 80 million. Out of this, India’s growth share is over 18 million (23 per cent), equivalent to the total population of Australia, which has two and a half times the land space of India. In other words, India is growing at the alarming rate of one Australia every year and will be the most densely populous country in the world, outbeating China, which ranks first, with a land area thrice this country’s. For a few more years, China can withstand the growth, but India cannot with a constricted land space. Here, the per capita crop land is the lowest in the world, which is also shrinking fast. If this falls below the minimum sustainable level, people will no longer be able to feed themselves and shall become dependent on imported food, provided there are nations with exportable surpluses. Perhaps, this may lead to famine and abnormal conditions in some parts of the country. (Source Population Challenge, Arcot Easwaran, The Hindu, dated 8-7-2003). It is emphasized that as the population grows rapidly there is a corresponding decrease in per capita water and food. Women, in many places, trek long distances in search of water. These distances would increase every year on account of excessive ground water withdrawals, catering to the need of the increasing population, resulting in lowering of water tables.”*

Second, lack of education. In spite of the high hopes held out by the Founding Fathers of the Constitution and the Directive Principles of State policy, a substantial percentage of the Indian population, especially those in rural areas, continues to remain uneducated.

Third, neglect of rural development. Though there has been industrialization and commercialization of urban areas, requisite emphasis has not been given to development in rural areas, inspite of the fact that real India lives in villages. Villagers survive on agriculture, cottage industries and petty labour. Most of the villages are not even well-connected with cities. They do not have the fortune of sharing prosperity, which is brought by industrial and commercial growth and remains confined, in distribution, to urban areas only.

Fourth, unemployment. Plump job opportunities are available to only highly educated and skilled. There is no planned and equitable distribution of job opportunities.

*Fifth, Corruption.* Corruption is eating into the roots of the Indian society. According to Transparency International's latest report (Consumer Perception Index, 2004), India's rank is 90 in the 145 countries of the world. This means that India is rated as the 55th most corrupt country in the world. The result is that prosperity and opportunities are available, only, to those who can employ unscrupulous means and methods, which the poor cannot just afford to do.

In a pluralist society like India with its vast geographical stretch, problems are bound to be very many. If poverty is a world-wide phenomenon, we cannot possibly single out ourselves. However, while in developing countries, concrete steps are being taken in the direction of fulfilling the basic human needs; to see that nobody dies of hunger or without shelter and clothing, in our country 26.1% of the population still continues to live below the poverty line.

The real cause, in the words of Amartya Sen, is the difference between sympathy and commitment. We have sympathy for the poor or the impoverished but we have no commitment for eradicating poverty. Sympathy is a lip service, showing concern for someone else's welfare; commitment is indicative of a capacity and willingness to sacrifice. Mahatma Gandhi's concern for poverty was a kind of commitment with which he imbued most of the nationalist movements. I do not wish to criticize, but do wish to share my impression with you that many a social activists, NGOs and certainly officials and planners put a full-stop to their concern by just displaying sympathy. Dr. Upendra Baxi has minced no words in observing that 'poverty' alleviation programmes, even when they show some concern for the 'poor', are largely directed to meet the needs of party political regimes and the gap, between the rhetoric on war against 'poverty' and the reality, in terms of changing the life-conditions of the 'poor', is very often a function of coherence of political ideologies, ways of organization of party cadres, and the leadership styles.....Politics of 'poverty' and poverty of politics go together in India. Politics of 'poverty' is that process of class practices which focuses on the 'poor' as a political resource. 'Poverty' of politics refers to processes and practices where political actors fail to perceive that inherent in the 'politics of poverty' is a logic of performance which cannot, for too long, be repudiated without serious threats to the prevalent models of the organisation of distribution of political power in the Indian society. (Law and Poverty;Critical essays Upendra Baxi, 1988 pp. xii, xiii).

### **What we can do?**

In a democratic country, like India, where we rule ourselves, there is no need for pessimism or despondency. We are the problems and we are the solutions. It is not that nothing has been done so far. In recognition of the importance of the fulfillment of basic needs for the elimination of poverty, India launched the Minimum Needs Programme (MNP) in the 1970s. Initially this included elementary education, health, housing, water, roads, nutrition and electricity. Later in the sixth and seventh five year plans, adult education, rural sanitation and public distribution system were also added to this list. MNP was given a new shape in 1996 and seven basic minimum services were identified. These include (i) 100% coverage in primary health facilities, (ii) safe drinking water to all, (iii) universalisation of primary education, (iv) housing to shelterless, (v) nutrition support to children (vi) connectivity; rural roads to all unconnected villages and (vii) revamping public distribution system. Since independence. India has been trying to fight poverty. It has, however, not succeeded in doing so to any satisfactory level. It is an old war but in urgent need for new strategy. The new strategy must focus on empowerment and the reduction in disabilities, which would enable the poor to effectively pull themselves out of poverty rather than depend on others for their survival.

I do not claim to be an expert in management, governance or economic planning. As a lay citizen of India, I can emphasize only three principles and leave them for in-depth consideration to

those, who matter. *Firstly*, the political masters, returned to power by the electorate, must confine themselves to laying down the policy; the planning and implementation should be immunized from political or populist consideration. Planning should be left to experts while implementation should be left to an ideal admixture of experts, bureaucracy and executive. *Secondly*, while planning for future, we should not forget that the real India lives in villages and our polity is agriculture based. If we overlook these two basic factors then our planning will be in air and devoid of foundational factors. *Thirdly*, we shall have to remember that spirituality is the hallmark and cultural heritage of ours. Ethics, integrity, sense of responsibility, respect for the laws, concern for other citizens striving for saving and investment, excellence in performance and punctuality can provide solutions for any problem or even epidemic. This is the lesson, we can learn from the developed countries. Poverty in India, exists not because we lack, natural resources or because nature was unkind to us; we are poor because we lack in attitude, and we do not have the will to, comply with and learn those functional principles, which have shown the path to rich and developed societies.

### **Role of legal fraternity**

On this day, I am reminded of Lyman Abbot's address on the 25th Anniversary of the Legal Aid Society in New York where he said:

*"if ever a time shall come when, in this city, only the rich man can enjoy law as a doubtful luxury, when the poor who need it most cannot have it, when only a golden key can unlock the door of the court room, the seeds of a revolution will be sown, the fire brand of revolution will be lighted and put into the hands of men and they will be justified in the revolution which will follow".*

Public interest litigations and letter petitions have been innovated by great jurists of this country for providing easy access to justice to the poor and those who cannot help themselves. We should not permit misuse of these; else remedy may prove to be worse than disease itself. Lok Adalats, legal aid, legal literacy and resort to alternate dispute resolution systems deserve to be adopted by every member of the legal fraternity, like a religious activity and a charity essential to be performed as a part of professional duty. Leading lawyers would do well to set an example by volunteering to appear for indigent persons in a specified number of cases without charging fee or where the cause shows concern for people at large.

Declarations and proclamations, resolutions and legislations remain a mirage unless there is an infrastructure which can be set in locomotion to prevent or punish a wrong and to make legal right, an inexpensively enforceable human right. Injustices are many and deprivation, victimizes and opposes the weaker sections and the minority. The laws and the justice system shall have to achieve the ideal enshrined in Article 39A of the Constitution "to secure that the operation of the legal system promotes justice, on a basis of equally opportunity". (Krishna Iyer, J., Law, Poverty and Legal Aid by S. Murlidhar, Foreword). We all shall have to dedicate ourselves to achieving this ideal.

In *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225, what Justice Dwivedi said shall continue to echo in the ears of judges and lawyers until poverty has been eradicated. He said, *"It is really the poor, starved and mindless millions who need the Court's protection for securing to themselves the enjoyment of human rights. In the absence of an explicit mandate, the Court should abstain from striking down a constitutional amendment which makes an endeavour to 'wipe out every tear from every eye'.* In so doing, the Court will not be departing from, but will be upholding the national tradition." (para 1953)

And, Justice Y.V. Chandrachud said, "these landmarks in the development of the law cannot be permitted to be transformed into weapons for defeating the hopes and aspirations of our

teeming millions, half-clad, half-starved, half-educated. These hopes and aspirations representing the will of the people, can only become articulate through the voice of their elected representatives. If they fail the people, the nation must face death and destruction. Then, neither the Court nor the Constitution will save the country". (para 2016).

Poverty demands affirmative action. Its eradication is a constitutional mandate. (Per Thommen, J. in *Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217 at para 323 (13)).

### Epilogue

According to George Bernard Shaw, the greatest of evils and the worst of crimes is poverty (Major Barbara, Preface). If a free society cannot help the many who are poor, it cannot save the few who are rich ( – John F. Kennedy, Inaugural Address, 1961). Let us very clearly understand, if we cannot evolve the path for eradication of poverty, we are heading either for revolution or for the destruction of society.

I would end by quoting a dialogue from John Bernard Shaw (Pygmalion):—[Governor Pickering asked Doolittle – “have you no morals, man?” Doolittle replied – “cannot afford them, Governor. Neither could you, if you were as poor as me”.]



\* Speech delivered on “Poverty and Human Rights” on the occasion of the Human Rights day on 10th December, 2004, at India International Centre, New Delhi.

1. October 17 is observed as International Day for Eradication of Poverty.
2. Suicides and murder of children due to poverty is often reported in the news.
3. India Vision 2020, Report of the Committee on India Vision 2020, Planning Commission, Government of India under the Chairmanship of Shri S.P. Gupta. Page 71.
4. *Ibid.*, p. 80.
5. *Ibid.*, p. 80.
6. Economic Survey 2002-03, p. 214.
7. India Vision 2020, Report of the Committee on India Vision 2020, Planning Commission, Government of India under the Chairmanship of Shri S.P. Gupta, p. 102.