

# Human Rights and **Poverty** in India

Volume One

Theoretical Issues and Empirical Evidences



Edited by  
**S.N.CHAUDHARY**

**HUMAN RIGHTS  
AND  
POVERTY IN INDIA**  
Theoretical Issues and Empirical  
Evidences  
**COMPLIMENTARY COPY**  
VOLUME—I

*Edited by*  
**S.N. Chaudhary**

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**Citizen Participation in Police  
and Judiciary**  
*A Case of the Human Rights of the Poor,  
Illiterate and Ignorant*

SURES CHANDRA JAIN

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### **Introduction**

Largely speaking, human rights in India are equally available to poor and rich, illiterate and educated, ignorant and informed, all alike. But to so claim in real life is nothing but mockery as far as the human rights of the poor, illiterate and ignorant masses are concerned. This is an indisputable fact that the vast majority of the poor, illiterate and ignorant masses of India are not able to enjoy the human rights available to them as compared to the rich, educated and informed.

This paper is an attempt to point out major shortcomings of Indian police and judiciary as the hopelessly fail to deliver cheap and quick justice to poor, illiterate and ignorant masses of India. When police and judiciary are not to deliver cheap and quick justice to these teeming millions of Indians, then what is the meaning of human rights available to these teeming millions?

### **Human Rights and Poverty: Acts and Data**

Let us first enumerate essential Human Rights Acts applicable to the vast majority of poor, illiterate and ignorant masses in

India and provide data on them. Relevant Acts and regulations from various documents on human rights are given in original. The data on poverty in India, South Asia and in developing countries are taken from *Human Development Reports of the United Nations Development Programme (UNDP)* and the *World Development Reports of the World Bank*.

**A. Selected Acts Dealing With Human Rights**

1. Universal Declaration of Human Rights, 1948.
2. Seven Key Features for Securing Human Rights.
3. Human Rights and Human Development.
4. Principal Human Rights Instructions.
5. The United Nations System for Monitoring and Implementation of Human Rights.
6. Towards A Human Rights International Accountability Index.

**B. Data on Poverty in India, South Asia and Developing Countries**

1. Definitions of Human Poverty, Human Development Index (HDI).
2. Serious Deprivations in Many Aspects of Life in Developing and OECD Countries.
3. Trends in Poverty: 1993-94 to 1998, All India.
4. Population, GNP, Poverty Line in South Asian Countries.
5. Population Below Income Poverty Line in South Asian Countries.
6. Human Development Balance Sheet with Respect to Poverty and Income in Countries in South Asia and in Developing Countries in 1999.
7. Advances in Human Development.
8. Inequality in the World, Income-wise.
9. Income Poverty in Selected OECD Countries.
10. Poverty in Various Regions of the World for 2000.
11. Demographic Trends in Countries in South Asia and Other Regions in the World.



12. The World Bank and the IMF, Strategy for Poverty Reduction.
13. The Millennium Declaration's Goals for Development and Poverty Eradication.

#### **A. Selected Acts Dealing With Human Rights**

Human Development Report, 2000, United Nations Development Programme (New York: Oxford University Press, 2000) is a special edition on Human Right and Human Development. Some of the selected Acts dealing with human rights and human development are quoted below from this Report.

##### ***Universal Declaration of Human Rights, 1948***

In 1948, the Universal Declaration of Human Rights was adopted, for the first time in history acknowledging human right as a global responsibility. Today all but one of the six core covenants and conventions on civil, political, economic, social and cultural rights have each been ratified by 140 or more countries. All but one of the seven core labour rights conventions have been ratified by 125 or more countries. There is still far to go but the progress has been spectacular.

The 21st century's growing global interdependence signals a new era. Complex political and economic interactions, coupled with the rise of powerful new actors, open new opportunities. They also call for a more visionary commitment to building the institutions, laws and enabling economic environment to secure fundamental freedoms for all; all human rights, for all people in all countries.

Individuals, government, non-governmental organizations (NGOs), corporations, policy makers, multilateral organizations—all have a role in transforming the potential of global resources and the promise of technology, knowhow and networking into social arrangements that truly promote fundamental freedoms everywhere, rather than just pay lip service to them (p. 1).

Building on the principle of the UN Charter, the Universal

Declaration of Human Rights, adopted by the United Nations on 10 December 1948, is the primary document proclaiming human rights standards and norms. The declaration recognizes the universality, indivisibility and inalienability of the rights of all people as the foundation of equality, freedom, justice and peace in the world (p. 44)

*Some of the critical articles dealing with Human Rights in the Universal Declaration of Human Right (1948) are quoted below:*

*Article 16*

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

*Article 18*

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

*Article 25*

1. Everybody has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstance beyond his control.
2. Motherhood and childhood are entitled to special care

and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

*Article 26*

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

*Article 29*

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations (pp. 14-15).

*Seven Key Features for Securing Human Rights*

Seven key features are needed for a broader approach to securing human rights:

1. Every country needs to strengthen its social arrangement for securing human freedoms, with norms, institutions, legal frameworks and an enabling economic environment. Legislation alone is not enough.
2. The fulfilment of all human rights requires democracy that is inclusive—protecting the rights of minorities, providing separation of powers and ensuring public accountability. Elections alone are not enough.
3. Poverty eradication is not only a development goal, it is a central challenge for human rights in the 21st century.
4. Human rights, in an integrated world, require global justice. The state-central model of accountability must be extended to the obligations of non-state actors and to the state's obligations beyond national borders.
5. Information and statistics are a powerful tool for creating a culture of accountability and for realizing human rights. Activists, lawyers, statisticians and development specialists need to work together with communities. The goal: to generate information and evidence that can break down barriers of disbelief and mobilize change in policy and behaviour.
6. Achieving all rights for all people in all countries in the 21st century will require action and commitment from the major groups in every society—NGOs, media and business, local as well as national parliamentarians and other opinion leaders.
7. Human rights and human development cannot be realized universally without stronger international action, especially to support disadvantaged people and countries and to offset growing global inequalities and marginalisation (pp. 6-12).

#### *Human Rights and Human Development*

Human rights and human development share a common vision and a common purpose—to secure the freedom, well-being and dignity of all people everywhere (p. 1).

Today, with impressive achievements and a significant unfinished agenda in human rights and human development, the struggle continues for realizing and securing human freedoms in seven areas:

- Freedom from discrimination—for equality.
- Freedom from want—for a decent standard of living.
- Freedom for the realization of one's human potential.
- Freedom from fear—with no threats to personal security.
- Freedom from injustice.
- Freedom of participation, expression and association.
- Freedom for decent work—without exploitation (p. 31).

***Principal Human Rights Instruments***

Milestones in the adoption of major human rights instruments are given below:

1. 1948: Universal Declaration of Human Rights (UDHR).
2. 1965: International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).
3. 1966: International Covenant on Civil and Political Rights (ICCPR).
4. 1966: International Covenant on Economic, Social and Cultural Rights (ICESCR).
5. 1979: Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
6. 1984: Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).
7. 1989: Convention on the Rights of the Child (CRC).

***The United Nations System For Monitoring Implementation of Human Rights***

*International Court of Justice (1946)*

*Functions:*

- To settle in accordance with international law the legal disputes submitted to it by states.
- To give advisory opinions on legal questions referred to it by duly authorized international organs and agencies.

#### *International Criminal Court*

(agreement to set it up adopted in 1998; court has yet to come into existence)

Proposed functions:

- Bringing cases against individuals for war crimes, genocide and crimes against humanity.
- Increasing state responsibility for infringement of human rights.
- Contributing to an international order that demands respect for human rights.

#### *Office of the High Commissioner for Human Rights (1993)*

- Providing states with advisory services and technical assistance on request.
- Enhancing international cooperation in human rights.
- Engaging in dialogues with government aimed at securing respect for all human rights.
- Supporting the existing UN human rights machinery.
- Promoting the effective implementation of human rights standards (p. 45).

#### *Towards A Human Rights International Accountability Index*

Members of the United Nations are held accountable for human rights through three routes:

*Accept:* All countries ratifying or acceding to the major international human rights treaties commit themselves, in that act, to international scrutiny of their human rights record.

*Cooperate:* All states ratifying human rights treaty are committed to submitting an initial report within one to two

years on the status of rights addressed in the treaty and periodic reports thereafter—yet many do not. For the six major treaties, almost 250 initial reports were overdue on 1 January, 1999. Even states that have not ratified treaties are called upon to cooperate with requests made by special rapporteurs and other special procedures by inviting them to visit the country.

*Respond:* By becoming a party to a treaty, a state undertake to cooperate with the treaty body concerned by responding to its concluding observations and final views. Equally, by joining the United Nations, states agree to cooperate with the organization, and these days that includes its human rights special procedures.

An index can be constructed to capture the commitments in each of these areas (p. 107).

#### **B. Data on Poverty in India, South Asia and Developing Countries**

##### ***Definitions of Human Poverty, Human Development Index (HDI), Human Poverty Index (HPI)***

*Human Poverty:* Human poverty is defined by impoverishment in multiple dimensions—deprivations in a long and healthy life, in knowledge, in a decent standard of living, in participation. By contrast, income poverty is defined by deprivation in a single dimension—income—because it is believed either that this is the only impoverishment that matters or that any deprivation can be reduced to a common denominator. The concept of human poverty sees lack of adequate income as an important factor in human deprivation, but not the only one. Nor, according to this concept, can all impoverishments be reduced to income. If income is not the sum total of human lives, lack of income cannot be the sum total of human deprivation. (Source: *Human Development Report 2000*, UNDP, New York, 2000, p. 14).

*Human Development Index (HDI):* The HDI measures the overall achievements in a country in three basic dimensions of human development longevity, knowledge and a decent

standard of living. It is measured by life expectancy, educational attainment (adult literacy and combined primary, secondary and tertiary enrolment) and adjusted income per capita in purchasing power parity (PPP) US dollars. The HDI is a summary, not a comprehensive measures of human development. (Source: *Human Development Report 2001*, UNDP, Oxford University Press, New York, 2001, p. 14).

*Human Poverty Index (HPI)*: While the HDI measures overall progress in a country in achieving human development, the human poverty index (HPI) reflects the distribution of progress and measures the backlog of deprivations that still exists. The HPI measures deprivation in the same dimensions of basic human development as the HDI. (Source: *Human Development Report 2001*, UNDP, Oxford University Press, New York, 2001, p. 14).

### *Serious Deprivations in Many Aspects of Life in Developing and OECD Countries*

#### (a) *Developing Countries*

##### Health

- 968 million people without access to improved water sources (1998);
- 2.5 billion people without access to basic sanitation (1998);
- 34 million people living with HIV/AIDS (end of 2000); and
- 2.2 million people dying annually from indoor air pollution (1996).

##### Education

- 854 million illiterate adults, 543 millions of them women (2000); and
- 325 million children out of school at the primary and secondary levels, 183 million of them girls (2000).



Income Poverty

- 1.2 billion people living on less than \$ 1 a day (1993 PPP US\$), 2.8 billion on less than \$ 2 a day (1998).

Children

- 163 million underweight children under age of five (1998); and
- 11 million children under five dying annually from preventable causes (1998).

(b) OECD Countries

- 15 per cent of adults lacking functional literacy skills (1994-98);
- 130 million people in income poverty (with less than 50 per cent of median income) (1999);
- Eight million undernourished people (1996-98); and
- 1.5 million people living with HIV / AIDS (2000).

Source: *Human Development Report 2001*, UNDP, Oxford University Press, New York, 2001, p. 9

Table 16.1: Trends in Poverty: 1993-94 to 1998, All-India

Year	Datt's Estimates		S.P. Gupta's Estimates		Total
	Rural	Urban	Rural	Urban	
1993-94	36.66	30.51	37.27	32.26	35.07
1994-95	41.02	33.50	38.03	34.24	36.98
1995-96	37.15	28.04	38.29	30.05	36.08
1997	35.78	29.59	38.46	33.97	37.23

Source: S. Mahendra Dev (2000): "Economic Reforms, Poverty, Income Distribution and Employment," *Economic and Political Weekly*, Mumbai, March 4, p. 824. Estimates based on NSS data on consumer expenditure.

Table 16.2: Population, GNP, Poverty and HDI Rank in South Asian Countries

Country Region	Population 1999 millions	GNP per capita (US\$ and Indian Rs) 1999	Human Development Index: Rank among 162 Countries in 2001		Population in Poverty 1995	
			HDR 2001 (p. 154)	WDR 2000-01 (p. 27's)	HDR 2001 (p. 141)	HDSA 1998 (p. 178)
India	992.7					
Pakistan	137.6	\$450, Rs. 20,250	115		328	35
Bangladesh	134.6	\$470, Rs. 21,150	127		41	29
Nepal	18.7	\$370, Rs. 16,650	132		55	46
Sri Lanka	22.5	\$220, Rs. 9,900	129		10	45
Bhutan	2.0	\$820, Rs. 36,900	81		4	22
Maldives	0.3	\$ 510 Rs. 22,950	130		n/a	n/a
South Asia	1,377.6	\$1,160, Rs. 52,200	77		n/a	n/a
		\$440, Rs. 19,800			438	35

Indian Rs. calculated at the exchange rate of Rs. 45 per US\$.

Sources:

1. Mahbu ul Haq and Khadija Haq (1998): *Human Development in South Asia*, The Human Development Centre, Karachi, Pakistan, (Oxford University Press, Karachi Pakistan).
2. United Nations Development Programme, *Human Development Report, 2001*, (Oxford University Press, New York, 2001).
3. The World Bank, *World Development Report, 2000/2001*, (Oxford University Press, New York, 2000).

Table 16.3: Population Below Income Poverty Line in South Asian Countries

Name of the country and the region	HDI Rank out of 162 countries in the World	Population Below Income Poverty Line	
		\$1 a day (1993 PPP US\$ 1983-99)	National Poverty line 1984-99
India	11	44.2	35.0
Pakistan	127	31.0	34.0
Bangladesh	132	29.1	35.6
Sri Lanka	81	6.6	25.0
Nepal	129	37.7	42.0
Bhutan	130	—	—
Maldives	77	—	—

Source: Human Development Report 2001, UNDP, Oxford University Press, New York 2001, summarized from pp. 149-51.

**A Need for an Administrative Structure for Cheap and Quick Justice to the Poor, Illiterate and Ignorant**

There is a wide spread discontent among the population in India regarding the failure of police and courts in delivering in cheap and quick justice. Approximately three million cases are pending in various courts, and most of them just for so many years.

The Police Act, 1861, enacted by the British colonial government, is still very much in force. Police administration in India is a very important law enforcement agency, but common citizens have literally no hope and faith in police administration. Torture, rape and deaths in police custody are just so common in India, as frequently reported in the newspapers which are filled with horror tales of police brutality. As an example, some of such cases are documented by Amnesty International in its book: *Amnesty International India: Torture, Rape and Deaths in Custody*, London: United Kingdom, March 1992.

Official Secret Act, 1923 is also very much in force in India which is a legacy of the British colonial past. This act effectively prohibits any politicians or bureaucrats in disclosing whatever

Table 16.4: Human Development Balance Sheet with Respect to Poverty and Income in Countries in South Asia and in other Developing Countries in 1999

Poverty and Incomes	
<i>Human Advance</i>	<i>Human Distress</i>
<i>South Asia</i>	
GNP grew at an average annual rate of more than 5 per cent and per capital GNP by 3 per cent during the years 1980-93. Merchandise exports grew at an annual rate of 7 per cent in 1980-93.	The real GDP per capita is still only \$1,370, which is the lowest compared to any other region in the world. South Asia is home to over 500 million of the poorest people in the world.
<i>India</i>	
The average real GDP per capita (in PPP \$) doubled, despite a doubling of the population in the last three decades.	44 per cent of the total population lives in absolute poverty. Nearly one-third of the world's poor live in India.
<i>Pakistan</i>	
In the last two decades, GNP per capita registered an increase of 231 per cent—the highest in South Asia.	36 million people live in absolute poverty. More than half of the cultivable land is in holdings of 50 acres and above, in the hands of big landlords.
<i>Bangladesh</i>	
There are no excessive concentrations of income, wealth or land compared to other South Asian countries.	52 per cent of the population survives below the absolute poverty line.
<i>Nepal</i>	
Per capita income has more than doubled in the last two decades.	Despite a vigorous growth rate, the current level of per capita income is only \$190, the lowest in the South Asia region.
<i>Sri Lanka</i>	
Real GDP per capita (PPP\$) more than doubled between 1960 and 1993.	Almost one-third of the population lived in absolute poverty in 1993.
<i>Bhutan</i>	
The Human Development Index for Bhutan has increased by 31 per cent since 1987, which is greater than the increase in any other country in the region.	In real terms (in PPP\$), the GDP per capita of \$790 is the lowest in the South Asian region.
<i>Maldives</i>	
Per capita income, at \$820, was the highest in South Asia.	

Source: Mahbub ul Haq, *Human Development in South Asia, 1997* (Karachi, Pakistan: Oxford University Press, 1997, details summarised from many pages).

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crimes, scams and irregularities are being committed in the government functioning. And there are just so many crimes, scams and financial irregularities, which are reported in newspapers.

Wide spread discontent in public is also there because justice is not delivered quickly enough to the ministers, politicians and bureaucrats accused of bribes, scams and financial irregularities. Permission from the competent authority is required to prosecute any politician or bureaucrat who is charged with any bribe, scam and financial irregularities, while in fact, the same competent authority for granting this permission, itself is generally in league with the accused. Lokayukta of Madhya Pradesh and former Judge of Supreme Court, Justice Faizanuddin said about this matter that "the past experience showed that the power of granting such permission was being used more to defend corrupt politicians and bureaucrats than punish them."

To counter these problems, being faced by the common people in getting justice from police and judiciary, there is a need for an alternative system of administration for police and judiciary. It is a fact that cheap and quick justice for the millions of poverty stricken and helpless people in India is patently denied. An editorial in the *Times of India*, Mumbai, stated that "But for the ordinary citizen, an encounter with the law is very much the stuff of nightmares" (15.03.1999, p. 12).

The above analysis clearly shows that of course at the national and the international levels efforts are in progress since long to address the question of human rights and poverty. Because of such intervention there is change in the scenario but in spite of this, particularly in the Asian countries, the situation is far from satisfaction. The low literacy rate, high mortality rate, unemployment, police atrocities, denial of basic facilities to the poor prove this fact.